

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARITZA VAZQUEZ
Claimant

APPEAL NO. 13A-UI-06144-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 12/23/12
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 15, 2013, reference 07, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 2, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Jeff Anderson participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a brazier from February 14, 2012, to April 11, 2013. She worked the second shift from 3:30 p.m. until midnight. She was informed and understood that under the employer's work rules, employees were required to obtain permission from a supervisor to leave work before the end their shift.

The claimant was suffering from a work-related injury to her shoulder for which she was treated by a company doctor. On April 11, 2013, the claimant brought in work restrictions from her doctor and provided those restrictions to her supervisors. Under the restrictions, she was supposed to work in her regular job as a brazier for the first and last hour of her shift because the job was strenuous and required working above shoulder level. The rest of the time, she was supposed to be on light duty.

The team lead disregarded the claimant's restrictions by making her work as a brazier for close to four hours during the shift. She had complained to the team lead about this. She was working a more light-duty job from 10:30 to 11:30 p.m. As a result of working in her regular job for an extended period, her shoulder was very painful by 11:30 p.m. Workers on the line where the claimant was working were sent home at 11:30 p.m. She was told that the braziers were required to go to the post-foam department to finishing some brazing. Since the claimant had already brazed for close to four hours, this would have again violated her restrictions. The claimant reminded the team lead of her restrictions and said she was going home.

The employer discharged the claimant on April 12, 2013, for leaving work before the end of the shift without permission.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

No willful and substantial misconduct has been proven in this case. The claimant left work for a legitimate reason since the job assignment given to her at the end of her shift exceeded her restrictions since she had worked way over two hours in her regular job. She notified the team lead that she was leaving.

DECISION:

The unemployment insurance decision dated May 15, 2013, reference 07, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css