

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTEN M DUVEL**  
Claimant

**APPEAL NO. 12A-UI-13481-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TARGET CORPORATION**  
Employer

**OC: 10/14/12**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Christen Duvel (claimant) appealed a representative's November 2, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was discharged from work with Target Corporation (employer) for insubordination in connection with her work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 11, 2012. The claimant was represented by Joseph Martin, Attorney at Law, and participated personally. The employer provided notice to Iowa Workforce Development that it did not wish to participate in the hearing. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 10, 2007, and at the end of her employment she became a full-time warehouse clerical person. Part of the group leaders' responsibilities was to slot tractor trailers. The group leader would send a message through the computer to the tractor-trailer driver indicating the correct loading dock to use. The claimant was told by three group leaders that it was not part of her work responsibilities to slot tractor trailers.

On October 11, 2012, Group Leader Jared told the claimant to slot trailers. The claimant questioned the Group Leader Jared's order but followed his instruction. On October 12, 2012, prior to the start of her shift, the claimant filed a complaint with Human Resources regarding Group Leader Jared and requested clarification regarding her job description.

Approximately six hours later on October 12, 2012, Group Leader Jared escorted the claimant alone into a conference room and told her she was going to be written up for her conduct. The claimant explained that she had filed a complaint with Human Resources and would like them to make the final decision. Group Leader Jared raised his voice and turned red. The claimant

requested a witness three times before Group Leader Jared obtained one. Group Leader Jared did not mention the write up again. He talked about the claimant being insubordinate and the claimant asked to let Human Resources settle the matter. Group Leader Jared and the witness walked the claimant off the property and told her she was suspended.

The claimant was not scheduled to work on October 13, 14, or 15, 2012. On October 16, 2012, the employer terminated the claimant for insubordination.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). The employer did not participate in the hearing and, therefore, provided no evidence of job-related misconduct. It appears the employer terminated the claimant for asking if her supervisor assigned her an inappropriate task and complaining

about her supervisor. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's November 2, 2012 decision (reference 01) is reversed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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