

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELLISA A MARTIN
Claimant

APPEAL NO: 14A-UI-13139-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DPM SE 14TH LLC
Employer

OC: 11/02/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 9, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the January 16 hearing. Shawn Doyle, the area supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in October 2011. For the last year of her employment, the claimant worked as a general manager for the employer. When the owner discharged the claimant on November 3, 2014, he told her that changes needed to be made and he concluded that she did not want to work for the employer any longer.

In January 2014, the employer received an anonymous letter from an employee who complained about the claimant. In early October a customer complained on October 5 and 6 about the claimant's attitude at work. The claimant told the owner about this customer and why she was not happy. Typically, the claimant makes deposits every three days. In late October 2014, the employer learned the claimant did not make a timely deposit. The claimant acknowledged that one time she did not make a timely deposit. Although the employer wrote up a warning for making a late deposit, the employer did not talk to the claimant about this issue or give her the warning.

The business the claimant managed was losing money. The owner decided a change needed to be made and discharged the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 (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 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant, but the evidence does not establish that the claimant intentionally disregarded the employer's interests. The claimant did not commit work-connected misconduct. She performed her job to the best of her ability. As of November 2, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's December 9, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of November 2, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs