

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANA K DEE**

Claimant

**APPEAL NO: 10A-UI-00579-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 12/13/09**

**Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's January 5, 2010 decision (reference 01) that held the claimant qualified to receive benefits and employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. A telephone hearing was held on February 24, 2010. The claimant participated in the hearing. Jessica Sheppard, a human resource associate, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer on October 3, 2000. The claimant worked as a full-time production employee. Kevin Norris was the claimant's supervisor. When the employer had Norris work in another department, he usually told his employees who would be supervising them.

On December 14, 2009, the claimant reported to work as scheduled at 6:00 a.m. The claimant did not feel well and visited the restroom a number of times during the 90 minutes she was at work. The claimant's production line was not running on December 14. An employee from another department took the claimant to a job the employer assigned the claimant that day. When the claimant put away her equipment that she did not need, she again visited the restroom. Before going back to the assigned job, the claimant saw Norris and told him she did not feel well and was going to go home. Norris then told the claimant that he was not her supervisor that day. The claimant does recall Norris telling her that Fred Smith was her supervisor. The claimant assumed Norris would contact her supervisor by radio and let him know she was ill and had gone home. The claimant left at 7:26 a.m. When she got home, she went to bed and slept.

On December 15, 2009, the employer discharged the claimant. Even though the claimant's job was not in jeopardy before December 14, leaving work without permission is a class D violation. Class D violations subject employees to immediate dismissal. The employer discharged the claimant for leaving work without Smith's permission.

#### **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 section 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on the information the employer received, the employer established justifiable business reasons for discharging the claimant. The facts do not, however, establish that the claimant intentionally disregarded the employer's policies. On December 14, the claimant did not feel well and decided she needed to go home. The claimant told her "regular" supervisor, Norris, that she was going home because she was ill. The claimant may have used poor judgment when she assumed Norris would let her assigned supervisor that day know that she was ill and had gone home. The claimant understood that usually a supervisor would notify other supervisors when an employee went home early because of illness. Since the claimant was frequently assigned other work, the fact she would be working at another job that day did not bother her. Since neither Norris nor Smith testified at the hearing, the claimant's testimony as to what happened the morning of December 14 must be given more weight than the employer's reliance on hearsay information from employees who did not testify at the hearing. A preponderance of the evidence does not establish that the claimant committed work-connected misconduct. As of December 13, 2009, the claimant is qualified to receive benefits.

#### **DECISION:**

The representative's January 5, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons. The claimant did not, however, commit

work-connected misconduct. As of December 13, 2009, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs