

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLE R HEIKES
Claimant

APPEAL NO. 09A-UI-06847-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BIOLIFE PLASMA LLC
Employer

**Original Claim: 03/29/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 23, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on May 29, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Thomas Henry participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a senior plasma technician from November 3, 2008, to March 27, 2009.

The employer discharged the claimant after an incident on March 27, 2009. An employee reported to management that she witnessed the claimant cleaning blood off the floor without using bleach to disinfect the area. She also reported that the donor had told her the claimant had forgotten to put the hemostat on the needle line and blood had spilled when the claimant connected the donor to the plasma machine. As a result, the donor was disconnected from the machine because of concern that the blood had been contaminated by air.

In fact, the claimant had cleaned up the blood using bleach. The claimant had not forgotten to connect the hemostat, but the hemostat had fallen off the needle line. The claimant was certain this had occurred after the donor was connected and no air contamination occurred.

The employer discharged the claimant because it believed the claimant had failed to connect the hemostat and willfully allowed the plasma to be contaminated by air, which would have made the plasma of no value.

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 (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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated April 23, 2009, reference 01, is affirmed. 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/kjw