

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUE E HERRICK**  
Claimant

**APPEAL NO: 10A-UI-03104-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACH FOOD CO INC**  
Employer

**OC: 01/24/10**  
**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a representative's February 22, 2010 decision (reference 01) that concluded she was not qualified to receive benefits, and the employer's account was exempt from charge because she had been discharged for disqualifying reasons. A telephone hearing was held on March 31, 2010. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on March 19, 1999. She worked as a full-time order picker in the warehouse. The claimant understood the employer did not allow employees to engage in arguments with co-workers at work.

In mid-January 2010 the claimant was dealing with personal problems. A co-worker was a known jokester at work. The claimant knew this co-worker vandalized equipment as a joke. On January 22, 2010, the co-worker was upset with the claimant. The claimant believed the co-worker retaliated against her by cutting her tape gun. When she found her vandalized tape gun, she confronted the co-worker and engaged in a verbal argument with him. After the claimant argued with the co-worker a short time, she left and thought everything was all right.

On January 25, 2010, the employer discharged the claimant for getting into an argument with a co-worker. When the claimant could not prove the co-worker cut her tape gun, the employer did not discharge him. A union steward told the claimant that if she resigned, she would receive unemployment insurance benefits. The claimant submitted her resignation even though the employer would not allow her to continue her employment.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The evidence established the employer initiated the employment separation and discharged the claimant. If the claimant had not submitted her resignation, the employer would still have ended her employment by discharging her. For unemployment insurance purposes, the claimant did not voluntarily quit, the employer discharged her.

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). The claimant knew the employer did not allow employees to engage in verbal arguments at work. When the co-worker cut her tape gun, the claimant lost her self control and confronted him about vandalizing her equipment. At that time the claimant was dealing with personal issues and used poor judgment when she confronted her co-worker. This isolated incident does not rise to the level of work-connected misconduct. Therefore, as of January 24, 2010, the claimant is qualified to receive benefits.

## DECISION:

The representative's February 22, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of January 24, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css