

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILL ALLEN
Claimant

APPEAL NO. 12A-UI-07777-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCDONALDS
Employer

OC: 05/20/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 18, 2012, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 20, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with witnesses, Larry Wandro and Randy Deberg. Sam Satterlee participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a crew member from November 11, 2003, to May 11, 2012. She was informed and understood that under the employer's work rules, employees were prohibited from using profanity at work. Sam Satterlee is the general manager of the restaurant.

On May 11, 2011, the claimant was confronted by her supervisor about not preparing biscuits and gravy that had been ordered. The claimant became upset because she was working alone on the grill and it was a busy morning. She told the supervisor that she was by herself on the grill and was tired of it. She told the supervisor to "fucking send me home." When the supervisor told her to go home for the day, the claimant tossed the spatula and said "fuck it." The claimant went to the lobby and called Satterlee to complain about the supervisor's treatment of her. She also used profanity in the lobby area before she left the restaurant.

On May 14, 2012, Sam Satterlee discharged the claimant for using profanity in the restaurant in violation of the employer's work rules. When confronted about the incident on May 11, the claimant admitted she had used profanity.

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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The preponderance of the evidence establishes the claimant used profanity in the restaurant on May 11. I believe Sam Satterlee's testimony that the claimant admitted to her she had used profanity at work. As a result, the claimant's testimony that she asked to be sent home but did not use any profanity is undercut. The claimant is disqualified from receiving unemployment insurance benefits for willful misconduct.

DECISION:

The unemployment insurance decision dated June 18, 2012, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs