

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA A GUTIERREZ
Claimant

APPEAL NO. 10A-UI-14290-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 06/06/10
Claimant: Appellant (5)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 14, 2010, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on December 1, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Steven Rhodes. Jenny Mora participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a production worker from May 5, 2008, to August 4, 2010. She was informed and understood that under the employer's work rules, employees were subject to discipline for violating the employer's best work environment policy by creating a hostile work environment. The claimant and a coworker were warned in March 2010 about arguing, name-calling, and making negative comments about the other employee's work performance. They were told that another violation of the best work environment rules would result in termination. The employer had received complaints back in early June 2010 about the claimant mistreating other employees by swearing at them and bossing them around.

In early August, the claimant got into an intense argument with a coworker about where to put boxes and pallets. She commented to the worker that he was nobody that she had to listen to and was not her boss. The coworker complained about her treatment of him and asked to be moved to a different area so he would not have contact with the claimant.

The employer discharged the claimant on August 4, 2010, for her repeated conflicts with coworkers despite warnings and being told her job was in jeopardy if the problem continued.

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 section 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 claimant's conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated October 14, 2010, reference 02, is modified with no change in the outcome of case. The claimant was discharged for work-connected misconduct. 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