

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKY L STRINGER**  
Claimant

**APPEAL NO. 09A-UI-19408-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES QUICK CASH INC**  
Employer

**OC: 11/08/09**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated December 15, 2009, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 19, 2010. The claimant participated personally. Participating on behalf of the claimant was her attorney, Ms. Elizabeth Coonan. The employer participated by Mr. Dan Sethi, and Natalie Adams.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Vicky Stringer was employed by Des Moines Quick Cash, Inc. from June 2008 until October 15, 2009 when she was laid off from employment. Ms. Stringer worked as a full-time teller and was paid by the hour. Her immediate supervisors were Randy Stringer, CEO, and Natalie Adams, Manager.

The claimant was laid off work on October 15, 2009. Claimant was told at that time that the employer's facility was closing for a period of time and was given no other reason for her separation from employment.

The employer believed that Ms. Stringer had acted in concert with her husband misappropriating and/or laundering funds from the employer's facility. The claimant's husband, who was also employed by the company as a CEO had left. The employer believed that he had done so to avoid prosecution. Ms. Adams, the facility manager, had noted irregularities in Mr. Stringer's work and had alerted the FBI. Ms. Adams also believes the claimant had engaged in some violations of company policy as well. The employer had been instructed by the FBI not to disclose why the claimant was being separated from employment, as the FBI wished to investigate further.

Ms. Adams believed that she had observed Ms. Stringer shredding financial documents in the past and believed that the claimant had violated company policy by wiring funds to the claimant's son in Florida. Under policy, employees are not to use the employer's money wiring facilities for their own use. At the time of hearing the claimant has not been arrested or charged with any violations of state or federal law.

It is the claimant's position that she did not engage in any misappropriation or money laundering and that she did not believe that her work practices violated any company, or franchising rules. The claimant denies shredding documents that were to be preserved. Ms. Stringer believes that wiring funds to a family member is not against policy as she had observed the facility manager, Ms. Adams, engaging in the practice.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct serious enough to warrant the discharge of an employee may not necessarily be enough to warrant a denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unable to present sufficient evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4). When it is within a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976).

The employer discharged Ms. Stringer in this case when the employer believed that the claimant might have been involved in misappropriation and/or money laundering that was attributed to her husband, who was also employed by the company. The employer had been advised to separate the claimant from employment by the FBI and had been further advised to give the claimant no reason for her separation from employment. The claimant was told at the time of separation that she was "being laid off" and the employer indicated they were closing the facility for a period of time. No other reasons for the discharge were provided to the claimant.

Ms. Stringer testified that she was following procedures as she understood them and did not engage in the intentional destruction or shredding of necessary documentation. It appears that the claimant had been instructed to follow certain procedures by her husband who was CEO of the company and the claimant did not believe that she was engaging in any destruction of necessary documents or the destruction of evidence. Ms. Stringer was also reasonable in her belief that utilizing company facilities to send her son money transfers was not a violation of policy as she had observed the manager, Ms. Adams, also transfer monies to her family members using the employer's facilities.

The question in this case is not whether the employer has a right to discharge this claimant for these reasons but whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. While the decision to terminate Ms. Stringer had been a sound decision from a management viewpoint, the evidence is not sufficient to show that the claimant intentionally engaged in conduct contrary to her employer's interests or standards of behavior or that the claimant was a party to her husband's misappropriation and/or money laundering. Benefits are allowed, providing the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated December 15, 2009, reference 01, is affirmed. The claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/pjs