

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNETTE R HAAS

Claimant

APPEAL NO: 11A-UI-10057-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOCUS SERVICES LLC

Employer

OC: 03/13/11

Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 19, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Kelly Hoftender, a staffing coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on June 20, 2011. The claimant was in training June 20 through 24, 2011. Before the claimant took the final exam, she told her immediate supervisor she did not believe this job was for her. After the claimant was encouraged to take the final exam, she did. The claimant did not pass the final exam. When the claimant did not pass the final exam, the employer did not allow her to continue working. The claimant's last day of work was June 24, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

When the claimant did not pass her final exam after she went through training, the employer ended her employment. Even though the claimant had previously indicated she did not think the job was for her, she did not quit. Instead, the employer ended her employment because she did not pass the final exam. The law specifically states inability to do a job does not amount to work-connected misconduct. Therefore, as of June 19, 2011, the claimant remains qualified to receive benefits.

The employer is not one for the claimant's base period employers. During her current benefit year, the employer's account will not be charged.

DECISION:

The representative's July 19, 2011 determination (reference 01) is affirmed. The employer ended the claimant's employment because she was unable to satisfactorily complete the training required for the job. While the employer had justifiable business reasons for ending her employment, the claimant did not commit work-connected misconduct. As of June 19, 2011, the claimant remains qualified to receive benefits provided she meets all other eligible requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css