

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA J ARCHIE

Claimant

APPEAL NO: 13A-UI-09042-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 07/07/13

Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 29, 2013 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. The claimant's witness was not available for the hearing. The claimant's witness contacted the Appeals Section after the hearing had been closed and the claimant and employer had been excused. The claimant's witness was thanked for responding to the message left for her, but the administrative law judge could not take any testimony from her. Gabriel Reidner, the manager as of July 15, 2013, 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 employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2011. She worked full time for the employer.

On March 4, 2013, the claimant received a written warning for reporting to work to work late and failing to notify the employer she would be late for work. The claimant did not have any other attendance issues until July 2013.

The claimant understood that when she was unable to work as scheduled, she had to contact a manager. The last day the claimant worked was June 29, 2013. The claimant called the employer on June 30 to report she was unable to work because her daughter had her baby.

The claimant was not scheduled to work on July 2. The claimant's husband had monthly medical appointments in St. Louis. Their car broke down on July 2. The claimant called and talked to the out-going manager on July 3, 4 and 5. The claimant reported she was unable to work because their vehicle would not start, but it was being repaired.

The claimant and her husband had problems finding anyone to fix their vehicle after it broke down in St. Louis. They thought it was repaired and then something else needed to be repaired before they could leave St. Louis. The claimant called the employer on July 6 to report she was still unable to work because their vehicle had not yet been repaired. On July 7, the claimant called the employer around 1:00 p.m. to report she was on her way back home, but she was unable to work as scheduled at 5:00 p.m. because she had to go to her doctor to get her medication. The claimant learned on July 7 that the employer had already decided to discharge her because she had not reported to work since June 29, 2013. The employer told the claimant on July 8 that she was discharged.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Although Reidner may not have known the claimant called the employer on July 6 or 7, she was not officially the new manager until July 15, 2013. The claimant's testimony that she called the employer every day to report the situation with her vehicle is credible. Even though the employer had to cover the claimant's shift for five days because of the claimant's unexpected transportation issues, the claimant and her husband took reasonable steps to get back to Iowa. Reidner's suggestion that the claimant should have rented a car to get back to Iowa is not reasonable unless she told the claimant she would not have a job if she did not report to work by a certain day. This did not happen. Instead, the claimant reasonably believed that when she kept the employer informed about the status of her car problems, the employer would cover her shifts until she was able to get back home and her job was not in jeopardy.

The employer established business reasons for discharging the claimant. The claimant did not commit work-connected misconduct because she took reasonable steps when she unexpectedly had car problems in St. Louis. As of July 7, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's July 29, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of July 7, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css