

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER L ROSS**  
Claimant

**APPEAL NO. 07A-UI-06706-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PANERA BREAD OF IOWA**  
Employer

**OC: 06/10/07 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Panera Bread of Iowa (employer) appealed a representative's June 28, 2007 decision (reference 01) that concluded Jennifer L. Ross (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because she had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 25, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate at the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 2006. The employer hired the claimant to work full time on the prep line. Later, the employer promoted the claimant to work as a caterer. Throughout her employment, the claimant started work at 5:00 a.m. or 6:00 a.m. and would finish at 1:00 p.m. or 2:00 p.m. When the claimant finished her catering job duties, the employer asked the claimant to work at the cash register. The claimant did not mind filling in occasionally at the cash register, but she did not like working at the cash register on a regular basis. Toward the end of her employment the employer required the claimant to work at the cash register.

On June 1, the claimant completed a form and faxed it to the office indicating she was only available to work 5:00 a.m. to 10:00 a.m. On June 4, the store manager, for the last two months, talked to the claimant about her change in availability. The manager told the claimant

she could not continue working as a caterer if she only worked 5:00 a.m. to 10:00 a.m. The manager asked the claimant to sign a resignation form, but the claimant declined to do this. The claimant had not decided if she was going to continue her employment or resign at that time. The claimant really wanted her hours reduced so she would not have to work at the cash register. The claimant was willing to again work on the prep line.

On June 5, the claimant worked as scheduled as a caterer. The claimant had finished catering work for the day and another manager told her she could leave work early. Before the claimant left work, this manager asked the claimant to sign the resignation form. The claimant again declined to do so. The employer then informed the claimant she could sign the form or leave. The manager also told the claimant that if she did not sign the form, the employer would never rehire her. On June 5, 2007, the claimant did not sign the form and left as the manager on duty directed her to do. The claimant understood that as of June 5, 2007, she no longer worked for the employer.

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

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment for reasons that do not qualify her to receive benefits, or if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts do not establish that the claimant intended to quit, she only wanted to reduce her hours. The employer ended the claimant's employment on June 5 by insisting she sign a resignation form or leave. For unemployment insurance purposes, the employer discharged the claimant.

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).

The employer did not participate in the hearing, so it is speculative as to why the employer insisted that the claimant sign a resignation form when she only wanted to change the hours she was available to work. The employer may have had business reasons for ending the claimant's employment. The facts do not establish that the claimant committed work-connected misconduct. As of June 10, 2007, the claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's June 28, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of June 10, 2007, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css