

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SLADANA PETIC**  
Claimant

**APPEAL NO: 13A-UI-05051-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VERIDIAN CREDIT UNION**  
Employer

**OC: 04/07/13**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated April 29, 2013, reference 01, that held the claimant was not discharged for misconduct on April 10, 2013, and benefits are allowed. A telephone hearing was held on June 4, 2013. The claimant participated. Shawna Matz, HR/VP, and Corey Stull, Manager Technology Services, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began employment on April 2, 2012, and last worked for the employer as a full-time PC specialist on April 10, 2013. She received employer policies in an employee handbook regarding confidentiality and computer access. She also was directed to an electronic policy file for review.

On April 3, 2013 the employer confronted claimant about accessing the Systems Administrator computer. She admitted browsing his computer and offered in the hearing that she had been given a work duty to check operating versus non-operating computers.

The employer verified during an investigation claimant had accessed the Administrator computer and it was more than just browsing. The employer discharged claimant for unauthorized access policy violation and employee dishonesty in failing to admit when confronted. The employer discipline allows for employment termination but does not require it.

**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 administrative law judge concludes the employer has failed to establish that the claimant was discharged for misconduct in connection with employment on April 10, 2013.

The employer did not effectively refute claimant's testimony she had a business purpose to access the Administrator computer pursuant to the duty assignment list to check what ones were working. While claimant was vague when confronted about the reason for browsing that led to access, no deliberate employee dishonesty is established. This mitigates the accessing policy violation to the point that job disqualifying misconduct is not established.

**DECISION:**

The department decision dated April 29, 2013, reference 01, is affirmed. The claimant was not discharged for misconduct on April 10, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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