

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA K REEVES

Claimant

APPEAL NO. 09A-UI-04827-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGAPE ENTERPRISES INC

Employer

OC: 09/07/08

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 11, 2009, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on April 23, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Mindy McKenna participated in the hearing on behalf of the employer with a witness, Gary Fuhlman..

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from October 23, 2008, to February 2, 2009. Her supervisor was Gary Fuhlman. She was informed and understood that under the employer's work rules, employees were prohibited from consuming alcohol on company premises. On January 8, 2009, Fuhlman, supervisor, warned her about consuming alcohol before reporting to work.

On January 23, 2009, the claimant consumed alcohol before reporting to the employer's business and brought a coffee cup containing alcohol with her. She left the coffee cup at work and drove to client businesses to conduct inspections of the jobs that had been done. While she was out conducting inspections, employees reported to Fuhlman that the coffee cup smelled like alcohol. Fuhlman smelled the cup and confirmed the reports. He took a portion of the liquid in the cup as a sample.

When the claimant returned from her inspections, Fuhlman confronted her about the alcohol in the cup. At first she denied bringing alcohol into work, but later admitted it after Fuhlman told her he had a sample he could test. The claimant begged Fuhlman not to fire her. Fuhlman told her that he would think about his decision.

On February 2, 2009, the employer discharged the claimant for violating the employer's work rules about consuming alcohol on company premises.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated March 11, 2009, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css