

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY L SEWARD

Claimant

APPEAL NO. 08A-UI-04965-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC – SEDONA STAFFING

Employer

**OC: 04/20/08 R: 03
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Sedona Staffing filed an appeal from a representative's decision dated May 15, 2008, reference 01, which held that no disqualification would be imposed regarding Mary Seward's separation from employment. After due notice was issued, a hearing was held by telephone on June 9, 2008. Ms. Seward participated personally. The employer participated by Ashley Lundgren, Account Manager, and Sarah Schneck, Risk Management Assistant. Exhibits One and Two were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Seward was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Seward completed applications for employment with Sedona Staffing, a temporary placement firm, on November 15, 2005 and January 2, 2008. She indicated on both applications that she had a GED. She did not, in fact, have a GED as of either date.

On January 17, 2008, Ms. Seward was placed on an assignment with Vangent, where she worked full time until March 13. The assignment required a GED because work was being performed for the Department of Education. When it was learned that Ms. Seward did not have the required GED, she was released from the assignment.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Seward was discharged because she provided false

information on her applications for employment with Sedona Staffing. She stated she had a GED when she did not.

The fact that an individual has falsified the application for hire does not, in and of itself, establish disqualifying misconduct. The law requires that there be some harm or potential harm to the employer as a result of the falsification. The falsification must endanger, or potentially endanger, the health, safety, or morals of Ms. Seward or others in order to constitute misconduct. Alternatively, the falsification must expose the employer to legal liabilities or place the employer in jeopardy in order to be considered an act of misconduct. See 871 IAC 24.32(6). Ms. Seward, in essence, overstated her education background by claiming to have a GED. The evidence of record does not establish any real or potential harm to the employer by virtue of her false information.

It was within the employer's prerogative to discharge Ms. Seward for giving false information on her applications. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, the administrative law judge concludes that disqualifying misconduct has not been established. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated May 15, 2008, reference 01, is hereby affirmed. Ms. Seward was discharged by Sedona Staffing but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs