

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIKA K MURPHY**  
Claimant

**APPEAL NO. 08A-UI-00229-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**YOUNG MENS CHRISTIAN ASSOCIATION**  
Employer

**OC: 12/02/07 R: 02  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Erika Murphy, filed an appeal from a decision dated December 31, 2007, reference 03. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on January 23, 2008. The claimant participated on her own behalf. The employer, YMCA, participated by Resident Services Administrator Jasen Garcia. Exhibits One, Two, Three and Four were admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Erika Murphy was employed by YMCA from September 5 until November 29, 2007, as a full-time overnight front desk supervisor. On September 16, 2007, all the desk staff was given a memo by Resident Services Administrator Jasen Garcia outlining the duties, obligations and responsibilities of the desk staff. The memo was very specific that desk staff was not to borrow or loan money or property to the residents, not to give or accept gifts or do personal favors, or discuss/complain about co-workers or residents to other residents. Engaging in any such conduct would lead to disciplinary action up to and including discharge. The claimant received and acknowledged the memo.

Mr. Garcia counseled the claimant on November 15, 2007, regarding reports he had received of a resident seen in her personal vehicle. This would come under the heading of doing personal favors for residents. Ms. Murphy denied this, saying the rumor had been put about by others to cause trouble for her and that she was not attracted to African American men. The manager investigated her complaint, talking with the individuals she specifically named as being responsible for the rumors. His interviews concluded there were no malicious rumors being deliberately spread by the persons named.

On November 24, 2007, Mr. Garcia received a report from a front desk clerk that the claimant had called to speak to one of the residents. He interviewed the front desk clerk, another staff member who was present and a resident who was also present. They all verified the claimant had called the resident on her off duty hours. While Mr. Garcia was discussing this with the human resources staff, Membership Coordinator Jody Cook reported on November 28, 2007, she had arrived at the residence a 4:25 a.m. that morning, there was no one at the front desk. Someone else let Ms. Cook in and then she saw the claimant come out of a darkened room across the hall from the front desk, and an African American man was in the room with her.

The human resources department and Mr. Garcia concluded the investigation into these incidents and the decision was made to discharge Ms. Murphy. She was notified by Mr. Garcia on November 28, 2007.

#### **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 claimant maintains she did not do any of the things she had been accused of doing, that these were all mere rumors put about by people hostile to her. However, she could not present any reason why the membership coordinator would fabricate these incidents. She did admit to being away from the front desk during her shift to "counsel" with the resident to investigate possible drug use by another resident. However, this was not part of her job duties and any

suspicion of drug use by a resident should be referred to case workers, not investigated by her, especially when it took her away from her primary duties at the front desk during her shift.

The claimant was discharged for several violations of the code of conduct, jeopardizing the mission of the YMCA, failing to perform her duties and required and unprofessional conduct. This is conduct not in the best interests of the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of December 31, 2007, reference 03, is affirmed. Erika Murphy is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs