

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE A JOHNSON

Claimant

APPEAL NO. 07A-UI-09756-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS

Employer

**OC: 09-16-07 R: 04
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated October 10, 2007, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice a telephone conference hearing was scheduled for and held on November 5, 2007. The claimant participated personally. The employer participated by Debbie Chambers, Scott Miller and Lisa Griffin. Exhibits One through Six were received into evidence.

ISSUE:

The issue in this matter is whether the claimant was discharged for intentional misconduct in connection with her work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from March 1, 2001 until September 14, 2007 when she was discharged from employment. Ms. Johnson held the position of full-time branch manager and was paid by salary. Her immediate supervisor was Lisa Griffin.

The claimant was discharged when the company's regional director believed the claimant had intentionally falsified an environmental summary. The claimant was to complete a work environmental summary/safety evaluation as it was a part of her job as a branch manager for the company. Without the claimant's knowledge or approval, the company's regional director had directed that a summary that was located at the facility be forwarded to the regional director. The summary that was forwarded was not the form that the claimant was to have completed but a summary from a previous time. Based upon the discrepancies in information on the report, the employer concluded the claimant had falsified the documents.

The claimant had conducted a safety evaluation as required but had not yet completed the report or sent it to her regional manager. A report that was not related to the week's summary

in question was forwarded to the regional manager at the manager's request without Ms. Johnson's knowledge or approval.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge in this case is whether the evidence establishes that the claimant was discharged from employment for intentional disqualifying misconduct at the time of separation. It does not. In this case the claimant was discharged based upon a report that had not been completed or authorized by Ms. Johnson but had been sent to the company's regional manager at the regional manager's request without the approval or authorization of Ms. Johnson. The report did not reflect the claimant's most recent job activities. In the opinion of the administrative law judge, the claimant has supplied satisfactory explanations for her activities during the period in question. The evidence does not establish that the claimant's conduct rose to the level of intentional disqualifying misconduct. The claimant did not intend to submit the report that was used to discharge her.

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.

For the reasons stated herein, the administrative law judge finds that the claimant's separation took place under non-disqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated October 10, 2007, reference 01, is hereby affirmed. The claimant was dismissed under non-disqualifying conditions. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs