

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JANYSSA J CAMP
Claimant

TMONE LLC
Employer

APPEAL 15A-UI-01761-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/11/15
Claimant: Respondent (2)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed an appeal from the February 3, 2015 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 8, 2015. Claimant did not participate. Employer participated through Pamela Kostlenik, Human Resources Generalist. Employer's Exhibit One was entered and received into the record.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an agent beginning on January 5, 2015 through January 15, 2015 when she was discharged. The claimant had a prior stint of employment with this employer from May 2014 through November 7, 2014. The claimant was discharged from her most recent employment due to time card falsification. The employer's rules and policies, a copy of which had been given to her, provide that all employees accurately record their time. An audit performed revealed that the claimant submitted a falsified time card change on January 12, 2015. The claimant had been employed one week when she submitted the inaccurate time card change. The claimant did not properly report the actual hours she worked and did not report that she had taken an unauthorized 30-minute break. She was discharged for falsification of employer records.

The claimant has not received any unemployment insurance benefits since filing her claim for benefits with an effective date of January 11, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to be honest with them in their dealings. The claimant had previously worked for this employer and knew or should have known how to fill out her time card. The employer's records establish that the claimant filled out her time card incorrectly. Her actions, during her first week of her re-employment are sufficient misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

As no unemployment insurance benefits were paid to the claimant, the issue of overpayment of benefits is moot.

DECISION:

The February 3, 2015 (reference 01) decision is reversed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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