

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARRYLE D BOHANNA**  
Claimant

**APPEAL NO. 11A-UI-08724-H2**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WILLKIE HOUSE INC**  
Employer

**OC: 06-12-11**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 27, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 16, 2011 at Des Moines, Iowa. The claimant did participate. The employer did participate through Ed Barnes, Executive Director and was represented by Tara Hall, Attorney at Law. Employer's Exhibits One through Nine were entered and received into the record. Claimant's Exhibits A and B were entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a deputy director full time beginning August 2, 2010 through June 10, 2011 when he was discharged. In April 2011 the claimant reported to board member Brad Buckley that he believed that the executive director was stealing from the organization. The claimant also notified Alison Simmons of his concerns. Ms. Simmons is not an employee of Willkie House and had no need to be involved in the matter at all. By informing Ms. Simmons of his suspicions, the claimant damaged the executive director's reputation with her and with the organization for which she works. Mr. Buckley notified the board chair, Pam Cummins who ordered an investigation. During the investigation the board determined that the claimant should be suspended without pay. It was up to the board to determine who should be suspended while the investigation was conducted. After an investigation the board determined that the executive director was not involved in any financial improprieties and that he certainly was not stealing from the organization. The claimant had no concrete evidence of theft or any financial misdealing other than his suspicions, which were unfounded. As a member of the management team, the claimant knew of the policy book. He was required to notify a member of the executive committee of the board of any issues he had with the executive director. Instead he chose to go to a non-employee, Ms. Simons and to a board member who immediately turned it over to the executive committee.

The employer is funded primarily through grants which require annual auditing to insure that granted funds are spent according to the grantors wishes. The audits have never disclosed any financial improprieties. The investigation revealed that it was the claimant who failed to follow Willkie House procedures when he made his complaint about the executive director. The board found none of the claimant's allegations credible. The employer's handbook specifically provides that creating disharmony among staff of causing harm to the personal reputation of the organization or employee is grounds for discharge. Also specifically prohibited is threatening the professional or personal reputation of another staff member. The claimant had no proof at all to substantiate his allegations.

### **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.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). As the deputy director the claimant knew or should have known that he was obligated to follow proper procedures. His failure to inform a member of the executive committee as well as his telling Ms. Simmons, and the administrative law judge concludes it was the claimant who told Ms. Simmons, amounts to an attack on the reputation of the executive director and on the Willkie House itself. The claimant

simply presented no credible evidence to either the board or at the hearing to support his allegations of theft. The administrative law judge concludes that the claimant simply wanted to run the program the way he saw fit and was unwilling to take direction from the executive director. The claimant's allegations undoubtedly hurt an organization that relies on grants and a 'good name' in order to do business in the community. Under these circumstances the administrative law judge concludes that the claimant's false allegations and his failure to follow internal policies amount to misconduct sufficient to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The June 27, 2011 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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