

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHELBY L CLARK
Claimant

INSIGHT PARTNERSHIP GROUP LLC
Employer

APPEAL 15A-UI-09129-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/10/14
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 4, 2015, (reference 02) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on September 2, 2015. The claimant participated personally. The employer participated through David Argo, Program Director.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a life skills specialist and was separated from employment on July 15, 2015, when she was discharged for being intoxicated on the job.

The claimant was discharged after coming to work on July 7, 2015, under the influence of alcohol. The claimant's shift began at 3:00 p.m. that day and she went to lunch and celebrated her 21st birthday. During that time, she purchased a Jack Daniels and coke, and drank some or all of it. The claimant admitted to co-workers she had drank alcohol before her shift, but elected not to call off the shift, or make prior arrangements to request time off. The claimant could have celebrated her birthday after her shift, but it would have been at 11:00 p.m. The claimant's job duties included providing supervision and transportation for individuals with disabilities. Because the claimant's manager did not immediately report the claimant's conduct, she was not screened for drugs or alcohol on that day, but admitted to the employer, she had in fact consumed alcohol before her shift.

The employer has a drug and alcohol-free policy, which the claimant received at the time of hire. Due to the nature of the violation, progressive discipline did not apply. She was subsequently discharged.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant was discharged after admitting to drinking alcohol prior to her July 7, 2015 shift, which coincided with her 21st birthday. The employer credibly testified that the claimant could have requested the shift off prior to, or alternately have called off and found someone to cover her shift, so that she could have celebrated and preserved her job.

As a life skills specialist, the claimant was responsible for supervising individuals with disabilities and helping with daily duties, which included transporting them in a vehicle. The claimant's choice to voluntarily consume alcohol prior to her July 7, 2015 shift, was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. Benefits are denied.

DECISION:

The August 4, 2015, (reference 02) unemployment insurance decision is affirmed. 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/css