

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER A LYDON
Claimant

APPEAL NO. 10A-UI-08290-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BOY SCOUTS OF AMERICA
MID-AMERICA COUNCIL**
Employer

OC: 05/09/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated June 3, 2010, reference 01, which denied benefits based upon her separation from Boy Scouts of America, Mid-America Council. After due notice was issued, a telephone hearing was held on July 27, 2010. The claimant participated personally. The employer participated by Mr. Clint Siskow, field director.

ISSUE:

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

FINDINGS OF FACT:

Having considered all the evidence in the record, the administrative law judge finds: Jennifer Lydon was employed by the Boy Scouts of America, Mid-America Council from September 1, 2006, until May 12, 2010, when she was discharged from employment. Ms. Lydon held the position of senior district executive and was paid by salary. Her immediate supervisor was Clint Siskow.

Ms. Lydon was discharged on May 12, 2010, following a training trip to the state of Minnesota. Ms. Lydon did not complete pre-course work required for the training by having three subordinates fill out surveys. The claimant neglected to bring a required course book and missed the final course completion session and graduation without notifying her supervisor that she would not be attending due to illness. Also considered in the decision to terminate the claimant was Ms. Lydon's continuing pattern of failing to submit work reports and to attend meetings timely.

Prior to discharging the claimant, the employer had placed the claimant on a 60-day work improvement plan that required the claimant to submit reports and to attend meetings in a timely manner. The claimant was required to complete all professional deadlines timely and to return calls within a reasonable time frame. The claimant demonstrated the ability to do the duties that

were part of her job with the Mid-America Council during the 60-day improvement period. Following the completion of the 60-day improvement plan, Ms. Lydon again reverted to reporting to meetings late and submitting required reports or documentation in an untimely manner. Based upon the previous 60-day improvement plan that had been served upon the claimant, the employer reasonably believed that Ms. Lydon knew or should have known that ongoing compliance with the provisions of the improvement plan were necessary for the claimant to continue in employment.

It is the claimant's position that a number of factors related to her work performance were affected by being "home based" and because of different supervisor expectations held by Mr. Siskow, who had been her supervisor for approximately seven months prior to her discharge. The claimant also believes that her discharge was related to a complaint that she had made regarding her supervisor and his personal conduct at the Minnesota meeting.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is.

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 evidence in the record establishes that Ms. Lydon had demonstrated the ability to adequately perform the duties incident to her position of senior district executive for the Boy Scouts of America. During the performance improvement plan, Ms. Lydon had reported to work and submitted work assignments timely and had been responsive to other requests and needs of her employer, volunteers, and parties served by the Mid-America Council. During the 60-day performance improvement plan, Ms. Lydon was made particularly aware of areas of deficiencies and the employer's reasonable expectations. The evidence in the record establishes that after the completion of the 60-day performance improvement period, Ms. Lydon again began to submit reports after the time limit and report for meetings late. The final conduct that culminated in the claimant's discharge was the claimant's failure to adequately prepare and have training course materials in her possession during a training meeting held in the state of Minnesota.

Based upon the totality of the evidence in the record, the administrative law judge concludes that the claimant knew or should have known of the employer's reasonable work expectations. The claimant's failure to follow the work expectations showed a disregard for the employer's interests and standards of behavior and thus was disqualifying conduct under the provisions of the Iowa Employment Security Act. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated June 3, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw