

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AKUOL KUOT**  
Claimant

**APPEAL NO: 12A-UI-10961-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KINSETH HOTEL CORPORATION**  
Employer

**OC: 08/12/12**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Akuol Kuot (claimant) appealed an unemployment insurance decision dated September 6, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Kinseth Hotel Corporation (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 11, 2012. The claimant participated in the hearing with her neighbor Bob Tollefson, although he did not testify. Victorine Hinrichs interpreted on behalf of the claimant. The employer participated through Nick Edwards, General Manager; Jacob Doerksen, Maintenance Director; Stephanie Wandrey, Human Resources; and Jackie Nolan, Employer Representative. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time laundry from July 16, 2009 through August 10, 2012 when she was discharged for repeated inappropriate behavior. She received a written warning on May 11, 2012 for cornering and yelling at Sobeyda, the housekeeping manager. The claimant yelled at her because she was sent home the day before. She was advised that she would be suspended for seven days if it happened again.

On August 5, 2012, the claimant, "flipped out yelling at two waterpark attendants." They simply asked for pool towels to see if they were done when the claimant started yelling at them. The employer issued the claimant a written warning on August 9, 2012 but the claimant refused to sign the warning.

On that same day, co-employee Jacob was called by radio to the laundry to look at a dryer that was not working. After he arrived, Jacob was speaking with Housekeeping Supervisor Rosie, "then all of a sudden Akuol comes running yelling at Jacob in a different language when she clearly can speak english (sic), pointing her finger." Sobeyda asked the claimant to stop yelling. The employer went to speak with the claimant shortly thereafter but the claimant had walked off the job without telling anyone she was leaving. Two written warnings were prepared by General Manager Nick Edwards on August 10, 2012 but she refused to sign both of them.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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.

The employer has the burden to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on August 10, 2012 for repeatedly yelling at co-employees and walking off the job. An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the

employee from receipt of unemployment insurance benefits. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995).

The claimant had been previously warned and knew her job was in jeopardy. However, in addition to the continued disruptive and unacceptable behavior, she walked off the job and refused to sign three written warnings. The failure to acknowledge the receipt of a written reprimand by signing it constitutes job misconduct as a matter of law. *Green v. IDJS*, 299 N.W.2d 651 (Iowa 1980). The employer has met its burden. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated September 6, 2012, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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