

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALICE M HOWELL
Claimant

APPEAL NO. 11A-UI-06737-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TENCO INDUSTRIES INC
Employer

**OC: 04/24/11
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Alice Howell, filed an appeal from a decision dated May 12, 2011, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 17, 2011. The claimant participated on her own behalf. The employer, Tenco, participated by Human Resources Coordinator Jonie Lundy and Program Service Coordinator Jennifer McCoy.

ISSUE:

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

FINDINGS OF FACT:

Alice Howell was employed by Tenco from September 2, 2004 until April 22, 2011 as a full-time supervisor. She began the supervisor's position in January 2009, and from that point the staff was expressing concerns about her and there had been some complaints from the families of clients. The employer counseled and coached her from time about this over a period of time.

On January 10, 2011, she received a written warning for insubordination. She had been instructed not to reveal certain management changes to her staff until further notice, but she did so anyway. The warning stated her job was in jeopardy if there were any further incidents.

On April 21 and 22, 2011, Human Resources Coordinator Jonie Lundy and Program Services Coordinator Jennifer McCoy met with the claimant for regular coaching sessions. During these two meetings, the claimant maintained she wanted to run her department her way or be "let go." She refused to believe the employer when she was told her staff complained she was unavailable to them and "curt" with them when she was, or that the families of clients had complained as well. Ms. Howell called Ms. Lundy and Ms. McCoy "liars." The employer was concerned about her consistent refusal to accept direction and instruction from them and from Executive Director Pam Williams on the operation of her department to try and improve morale.

After the meeting on April 22, 2011, the managers met and the decision was made to discharge the claimant for insubordination and continued refusal to follow instructions.

REASONING AND CONCLUSIONS OF LAW:

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 claimant had been advised her job was in jeopardy as a result of her insubordination and continued refusal to follow instruction. In spite of that warning, the claimant still refused to accept direction from the managers and executive director, because she wanted to run her department her way rather than in the manner required by the employer. The complaints from her staff, as well as the families of clients, indicated the problem was ongoing, but Ms. Howell called her managers "liars" rather than accept responsibility for her conduct.

The record establishes the claimant was discharged for insubordination and refusal to perform her job duties as required. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. She is disqualified.

DECISION:

The representative's decision of May 12, 2011, reference 01, is affirmed. Alice Howell is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw