

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER E MCCARROLL**  
Claimant

**APPEAL NO. 11A-UI-04189-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 02/20/11**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 23, 2011 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 2, 2011. Claimant participated. Employer participated through Regional Field Sales Manager Toni Lake and was represented by Merle Walker of Barnett Associates Inc. Employer's Exhibit 1 was admitted to the record.

**ISSUE:**

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as an outside sales representative from March 2006 and was separated from employment on February 22, 2011. She falsified her expenses. She claimed to have gone to Mason City during the week ending February 18 when she did not. On February 13 Lake spoke to claimant and asked if she was in Mason City that date and she said, "No, I went yesterday." Lake called Eric Pherson of PR Connections, who said she had not been there and she had cancelled her appointment. Lake confronted claimant on February 21 and she admitted she had not been there. Her expense report showed that she was in Mason City and two other towns that week. She claimed 252 miles for travelling to Mason City that week. She did not say she was in Ames and there was no mention of Ames on her expense report as she had testified. On September 13, 2010, claimant told Lake she was in Mason City but on September 15 Lake found out from corporate visitor Chris Goodwin that claimant had not been there that week to drop off the new marketing material and she had not been there for a month, when she was supposed to be there at least every other week. She had been warned in writing on August 2, 2010 for reporting sales on customer orders she issued without talking to customers for verification.

## 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.

The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. EAB*, 531 N.W.2d 645 (Iowa App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

Claimant's repeated failure to honestly and accurately report her travel and expenses after having been warned is either deliberate misconduct or evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. Benefits are denied.

**DECISION:**

The March 23, 2011 (reference 01) 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.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw