

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNY L LERCH**  
Claimant

**APPEAL NO. 10A-UI-08531-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GENESIS DEVELOPMENT**  
Employer

**OC: 05/16/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated June 11, 2010, reference 01, which denied benefits based upon the claimant's separation from Genesis Development. After due notice, a telephone hearing was held on August 2, 2010. The claimant participated personally. The employer participated by Kicki Ott, Team Leader.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds: Jenny Lerch was employed by Genesis Development from May 18, 2009 until May 17, 2010 when it was determined that the claimant's name had been added to the child abuse registry. Ms. Lerch worked as a part-time community service specialist providing services to vulnerable individuals in residential settings.

Although Ms. Lerch did not have her name on the registry at the time of hire, the claimant was aware that she was required to immediately report to her employer if her name was added to the registry. The claimant did not do so. Individuals whose names are included on the registry are not eligible to be hired or to continue to work for an employer providing services of the nature provided by this employer.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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 shows that Ms. Lerch was aware that she was required to inform the employer of any conditions which would prevent her from continuing to perform her services as a community support specialist for Genesis Development. Although Ms. Lerch was aware that her name had been added to the child abuse registry, she did not report the matter. Ms. Lerch knew that having her name on the registry prohibited her from performing services for this employer. The claimant's failure to maintain her employability and her failure to provide notice to the employer were a disregard of the employer's interests and standards of behavior and thus disqualifying under the provisions of the Employment Security Act. Benefits are withheld.

**DECISION:**

The representative's decision dated June 11, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, providing that she is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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