

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY E JAMES**  
Claimant

**APPEAL NO. 11A-UI-12632-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHILDREN AND FAMILIES OF IOWA**  
Employer

**OC: 08/28/11  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
Section 96.6-2 – Burden of Proof

**STATEMENT OF THE CASE:**

Mary E. James filed a timely appeal from an unemployment insurance decision dated September 20, 2011, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held October 18, 2011, with Ms. James participating and presenting additional testimony by Stephanie Clark. The employer, Children and Families of Iowa, did not respond to the hearing notice.

**ISSUE:**

Was the claimant discharged for misconduct in connection with the employment?

**FINDINGS OF FACT:**

Mary E. James was employed by Children and Families of Iowa from September 12, 2006, until she was discharged August 31, 2011. She last worked as office manager. A breach of security occurred in which a non-custodial parent against whom a no-contact order had been issued received information giving the address of the custodial parent and child. The employer blamed Ms. James for allowing the letter to be sent. She was discharged for this sole incident.

There had been similar incidents involving other employees in the past. They had not resulted in discharge.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in this record establishes that the claimant was discharged for misconduct in connection with the employment. It does not.

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 employer has the burden of proof. See Iowa Code section 96.6-2. As noted above, the employer did not participate in the hearing. The evidence does not establish that Ms. James was responsible for the letter. Second, a single act of carelessness or negligence is not sufficient to establish disqualifying misconduct according to the definition set forth above. Based on this evidence and the law, no disqualification may be imposed.

**DECISION:**

The unemployment insurance decision dated September 20, 2011, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

kjw/kjw