

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA K ILLINGWORTH
Claimant

APPEAL NO. 12A-UI-09856-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

JASPER COUNTY
Employer

OC: 07/15/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Donna Illingworth (claimant) appealed a representative's August 8, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was discharged from work with Jasper County (employer) for conduct not in the best interest of the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for September 13, 2012, in Des Moines, Iowa. The claimant participated personally. The employer was represented by Michael Galloway, Attorney at Law, and participated by Dennis Simon, Director of Human Resources, and Doug Bishop, Treasurer. The employer offered and Exhibits One, Two, Three, Four, Five, Six, Seven, and Eight were received into evidence. The claimant offered and Exhibits A and B were received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 hired on November 30, 1998, as a full-time second deputy treasurer. The claimant received the employer's handbook. In July 2008, the employer notified the claimant that she was no longer to keep petty cash to balance fees. All cash discrepancies should be recorded and turned over to the treasurer. In the spring of 2012, the treasurer found cash in the claimant's drawer. The claimant apologized and acknowledged she was not to keep extra undocumented cash in her desk drawer. The treasure told the claimant not to let it happen again.

On June 15, 2012, the employer discovered the claimant was still keeping petty cash to balance fees. None of the discrepancies had been recorded or turned over to the treasurer. The employer questioned the claimant on June 22, 2012. The claimant walked out of the meeting. The employer asked the claimant to return for a meeting to discuss the issue. After negotiation of the date the claimant and employer agreed to meet on July 5, 2012. The claimant was placed on administrative leave on through July 12, 2012.

The employer investigated the claimant's failure to record a customer's \$10.00 payment and subsequent gift of that \$10.00 to an employee and inappropriate use of the employer's internet. The employer also investigated the claimant's allegation of discrimination and harassment. The employer found no evidence of discrimination or harassment. It found the allegations of the claimant's conduct regarding the \$10.00 was correct. It also found that the claimant was surfing the internet, sending personal e-mail, preparing taxes and printing personal documents on the employer's equipment. The employer terminated the claimant on July 13, 2012, for repeated failure to follow the employer's instructions

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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 in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. She intentionally disregarded the employer's policies and made her own rules. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's August 8, 2012 decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css