

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JAMIE R PORTER
2563 MAGNOLIA RD
DECORAH IA 52101**

**LUTHERAN SERVICES IN IOWA INC
ATTN EMPLOYEE RELATIONS
1323 N WESTERN AVE
AMES IA 50010**

**Appeal Number: 05A-UI-07789-AT
OC: 06-05-05 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge for Misconduct

STATEMENT OF THE CASE:

Jamie R. Porter filed a timely appeal from an unemployment insurance decision dated July 20, 2005, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held August 15, 2005 with Ms. Porter participating. Service Manager Vicki Miene and Employee Relations Manager Martha Swanson participated for the employer, Lutheran Services in Iowa, Inc. Exhibit 1 was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jamie R. Porter was employed as a case worker by

Lutheran Services in Iowa, Inc. from March 29, 2004 until she was discharged by Service Manager Vicki Miene on June 8, 2005. Ms. Porter was required to have case notes submitted within seven days of completing services so that the employer could promptly bill for the services. Ms. Porter was warned on several occasions beginning on February 2, 2005 that she was not keeping her paperwork current as required. As of June 8, 2005, some paperwork from early May still had not been submitted, and case notes from early June had not been submitted.

When initially hired, Ms. Porter had no trouble completing paperwork as assigned. The office from which Ms. Porter initially worked closed in October. For a while after that, she still met expectations. The problems arose in early 2005.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant was discharged for misconduct in connection with her employment. 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant asserted that her failure to complete paperwork on time was the result of the closing of the office from which she worked in October 2004. The evidence in the record, however, persuades the administrative law judge that Ms. Porter's problems did not begin until sometime later. The evidence persuades the administrative law judge that the claimant was able to perform to the employer's satisfaction. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated July 20, 2005, reference 01, is affirmed. 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, provided she is otherwise eligible.

tjc/kjw