

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUDY K FRANKS**

Claimant

**APPEAL NO. 07A-UI-10683-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOODWILL INDUSTRIES  
OF THE HEARTLAND**

Employer

**OC: 10/21/07 R: 03  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Goodwill Industries, filed an appeal from a decision dated November 9, 2007, reference 01. The decision allowed benefits to the claimant, Judy Franks. After due notice was issued, a hearing was held by telephone conference call on December 4, 2007. The claimant participated on her own behalf and with witnesses Kathleen Poldberg, Laurie Hanson, and Mary Daman. The employer participated by Store Manager Kim Theis and Human Resources Manager Cara Hocking and was represented by Cambridge in the person of Barb Buss.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Judy Franks was employed by Goodwill from May 10, 2005 until October 22, 2007, as a full-time store clerk. On October 14, 2007, Store Manager Kim Theis announced at a staff meeting that all clerks would have added to their duties the driving of a truck. The truck was a rental vehicle somewhat larger than an ambulance. The truck was to be driven by each of the clerks on a rotating basis to a donation site 11 or 12 miles away, items collected, and driven back to the store.

Ms. Franks immediately expressed concerns about the change in duties. The manager said it was a corporate decision and there was nothing she could do about it. On Friday October 19, 2007, the claimant was informed it was her turn to drive the truck. She refused, stating she had not been hired, or trained, as a truck driver, that bad weather would be coming and she did not feel confident driving a large vehicle in bad weather, and if an accident were to occur, it would “go against [her] license.” Ms. Theis said she would have to consult with the human resources department.

Human Resources Manager Cara Hocking told the store manager to instruct the claimant again to drive the truck and if she refused, she would have to be discharged. On October 22, 2007, Ms. Theis again asked Ms. Franks to drive the truck and the claimant again refused, citing the same reasons. She was discharged for insubordination.

### **REASONING AND CONCLUSIONS OF LAW:**

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 claimant was discharged for refusing to drive the collection truck, a duty which had been added to her job description without her consent. She made her objections and concerns known immediately, but the manager could not remove those newly imposed duties. Ms. Franks was discharged for refusing to drive the truck. Failure to perform a specific task does not constitute misconduct if that failure is in good faith or for good cause. Woods v. IDJS, 327 N.W.2d 768 (Iowa App. 1982). The claimant's legitimate concerns were expressed to the employer, that she was not hired or trained as a truck driver and did not want the responsibility of handling a large, unfamiliar vehicle in city traffic or bad weather. Also, whether or not the employer had liability insurance, any accidents would be a mark against the claimant's personal driving license. The administrative law judge considers the claimant had good cause for refusing to drive the truck and her discharge was not for misconduct.

**DECISION:**

The representative's decision of November 9, 2007, reference 01, is affirmed. Judy Franks is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw