

**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**

**SARAH WILLIAMS  
APT 312  
2040 GLASS RD NE  
CEDAR RAPIDS IA 52402**

**BURLINGTON STAGE LINES LTD  
PO BOX 531  
WEST BURLINGTON IA 52655**

**Appeal Number: 05A-UI-11443-HT  
OC: 10/02/05 R: 03  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a - Discharge

STATEMENT OF THE CASE:

The claimant, Sarah Williams, filed an appeal from a decision dated November 2, 2005, reference 04. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 28, 2005. The claimant participated on her own behalf. The employer, Burlington Stage Lines Ltd., participated by District Manager Marty Bradley.

#### 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: Sarah Williams was employed by Burlington Stage Lines, Ltd., from April 2005 until September 10, 2005. She was a part-time ticket agent.

As a ticket agent the claimant had her own cash drawer for which only she and Terminal Manager Angie Kisling had a key. The boxes contained \$100.00 in change money which was left in the drawer in a locked room at the end of every shift after the day's receipts had been counted.

The claimant's last day of work was September 5, 2005. On September 6, 2005, Ms. Kisling was counting Ms. Williams's drawer and found no money in it at all. She called the claimant and notified her at which time she claimed her ex-boyfriend had broken into her house and taken her work keys. The keys were in a book bag on the couch.

The morning of September 7, 2005, when the terminal was opened for the day, the manager found the security room had been broken into and all of the lock boxes pried open with a pry bar. District Manager Marty Bradley was notified and the situation was reviewed. The decision was made to discharge the claimant and she was notified by Ms. Kisling on September 10, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 maintains her keys were stolen by her ex-boyfriend and he used the keys to break into the terminal and into her drawer. However, the money was missing the day before any break in at the station occurred. In addition, it is to be wondered that, if the ex-boyfriend had the keys to her drawer, why a pry bar was used on all the boxes. At the very least the claimant's box could have been opened with the key.

It appears the break in may have been an attempt to "cover up," or deflect suspicion on the loss of the money, which had been discovered the day before the money was discovered to be missing. At the very least, the claimant failed in her responsibility to keep the keys in a safe and secure location rather than in a book bag on her couch. She did not take the necessary precautions to secure the assets of the employer which was her responsibility. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of November 2, 2005, reference 04, affirmed. Sarah Williams is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/tjc