

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BONNY M ERDAHL
Claimant

APPEAL NO. 09A-UI-00444-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOC SERVICES LLC
Employer

**OC: 12/07/08 R: 03
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Bonny Erdahl, filed an appeal from a decision dated January 9, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 27, 2009. The claimant participated on her own behalf. The employer, IOC Services, participated by Employee Relations Manager John Stanford, Revenue Audit Manager Sandra Barrera, and Database Analyst Aaron Harn.

ISSUE:

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

FINDINGS OF FACT:

Bonny Erdahl was employed by IOC Services from June 11, 2007 until December 1, 2008 as a full-time lead revenue auditor. On May 12, 2008, the claimant received a written warning for failing to process and settle credit card charges for May 9, 10, and 11, 2008. She received a final written warning on May 13, 2008, for failing to meet the required standards for the “flash report” on May 10 and 11, 2008. The flash report is a daily internal report sent out by e-mail giving the revenue figures for the previous day. This includes the number of patrons, intake, pay outs, and other financial information.

On October 15, 2008, the claimant was put on a “performance improvement plan” to help her learn other aspects of the auditing system. Ms. Erdahl felt she was not capable of doing the job and did not fully understand all the responsibilities and how to perform them. The employer intended for her to train in all these areas and she was to “shadow” other auditors to learn about other areas of the business, such a food and beverages and slots. A schedule was set up for the next five weeks notifying her who she was to shadow during which weeks and was to be completed by November 23, 2008. She did not complete the training and afterward she was offered demotions to a position with less responsibility by both Revenue Audit Manager Sandra Barrera and Database Analyst Aaron Harn. The claimant declined both offers even though she felt she was “over her head” with her job duties as lead revenue auditor.

On December 1, 2008, the claimant sent a rough draft of the flash report to Revenue Audit Manager Sandra Barrera, who checked it and sent it back noting a correction of 20 cents needed to be made. When Ms. Erdahl sent out the final draft to the internal distribution list, the error had been compounded and was "off" by around \$300,000.00. Mr. Harn and Ms. Barrera discovered the mistake and the director of finance was consulted. The decision was made to discharge her and she was notified in person by Human Resources Manager Chelley Pratt and Ms. Barrera.

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 had been advised her job was in jeopardy as a result of her failure to follow procedure and substantial errors in the flash report. Ms. Erdahl felt she was not able to do her job duties as required and the employer attempted to give her extensive one-on-one training, which she failed to attend. She felt her job responsibilities were too much for her and was offered positions with less responsibility, which she declined.

The employer made a good-faith effort to keep Ms. Erdahl as an employee in a position she was comfortable with and capable of performing, but did not receive any cooperation from the claimant. She declined the training and the other positions. Instead, she continued in her current job and made a substantial error in the flash report on December 1, 2008, even after being specifically informed to make a needed correction by her supervisor. She not only failed

to perform her job duties as required but failed to follow the instructions of her supervisor. While her errors were not deliberate, the above Administrative Code section does indicate continuing negligence may constitute deliberate misconduct. The record establishes the claimant was discharged for conduct not in the best interests of the employer and she is disqualified.

DECISION:

The representative's decision of January 9, 2009, reference 01, is affirmed. Bonny Erdahl is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw