

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY D DEFORD**  
Claimant

**APPEAL NO. 13A-UI-14272-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DALLAS COUNTY CARE FACILITY INC  
DALLAS INC**  
Employer

**OC: 11/24/13  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated December 19, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on January 22, 2014. Claimant participated. Participating as a witness for the claimant was Mr. Doug Wilson, Co-Worker, and Ms. Theresa Addison, Co-Worker. The employer participated by Ms. Carolyn Dillard, Executive Director.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Mary Deford was employed by the Dallas County Care Facility, Inc. from February 1, 2013 until November 15, 2013 when she was discharged from employment. Ms. Deford was employed as a full-time cook and was paid by the hour. Her immediate supervisor was Bertha Holland. Dallas County Care Facility, Inc. is a nursing care facility.

Ms. Deford was discharged on November 15, 2013 when the employer concluded that Ms. Deford had acted inappropriately in dealing with a care facility resident. The employer had received a complaint from a facility employee that Ms. Deford had acted inappropriately by slamming a door in the face of a facility resident who was making an inquiry. Based upon the description of the event provided by the employee and because of other complaints about Ms. Deford's treatment of residents, the employer investigated the allegation.

In addition to the information provided by the employee who had complained, Ms. Deford was questioned about her conduct in the matter. Ms. Deford admitted that she had abruptly shut the door in the face of the female resident.

During the incident a female resident inquired at the door of the kitchen area "What's for dinner?" Instead of responding to the inquiry, Ms. Deford looked at the resident momentarily and then without speaking closed the door in the face of the resident who was standing in the hallway area. Ms. Deford explained that the resident's question had "aggravated her" when she was asked what was for dinner because the menu is posted in the hall area and they should look for themselves.

The employer considered Ms. Deford's conduct to be unacceptable towards the care facility resident and considered the claimant's conduct to be detrimental to the consumer as well as inappropriate under any circumstances. The employer reasons that some residents had difficulty reading or understanding and that the employer's reasonable expectation is that employees will treat residents in a respectful and helpful way.

It is Ms. Deford's position that her conduct took place because she was agitated by the "consumer's" questioning and believes that the resident could read.

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

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. 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.

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct that may be serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

In the case at hand the claimant was discharged when her conduct showed a willful disregard for the employer's interests and reasonable standards of behavior that the employer had a right to expect under the provisions of the Employment Security Law. Ms. Deford was employed in a care facility and knew or should have known that she had an obligation to treat residents reasonable with respect and patience. The claimant's act of abruptly shutting a door in a resident's face without comment or any answer to the resident's harmless question was clearly in disregard of the reasonable standards of behavior expected by the employer. Unemployment insurance benefits are withheld.

**DECISION:**

The unemployment insurance decision dated December 19, 2013, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

pjs/pjs