

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

JEANNENE M SCHIPPER
1528 MOUND ST
DAVENPORT IA 52802

JMF
ATTN KARIN
2735 – 62ND ST COURT
PO BOX 868
BETTENDORF IA 52722

Appeal Number: 04A-UI-02414-HT
OC: 01/18/04 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

STATEMENT OF THE CASE:

The claimant, Jeannene Schipper, filed an appeal from a decision dated February 24, 2004, reference 04. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 23, 2004. The claimant participated on her own behalf. The employer, JMF, participated by Human Resources Manager Karin Bloomer and Operations Manager Linda Kline.

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: Jeannene Schipper was employed by JMF from June 23, 2003 until January 20, 2004. She was a full-time production worker.

On January 16, 2004, the claimant called in absent to work due to fluid on her elbow. Later that day she called back to say she had gone to the doctor to have it drained and Operations Manager Linda Kline notified her to bring in a doctor's excuse and to provide any restrictions. When Ms. Schipper returned to work on Monday, January 20, 2004, with a doctor's statement excusing her from work on January 16, 2004, and stating the previously provided restrictions were still in effect. Ms. Kline contacted the doctor's office and was told the restrictions, but the office nurse also indicated the claimant had not been in to the doctor's office on January 16, 2004.

On January 20, 2004, Ms. Kline met with Ms. Schipper and asked her why the doctor's office had no record of her being seen by the physician when she had stated the reason for her absence was to go to the doctor. The claimant had no explanation and was discharged for misrepresenting the reason for her absence.

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 had provided no explanation as to how she could have obtained a doctor's excuse for January 16, 2004, when the doctor's office has no record of her being seen on that date. An employer has the right to expect honesty from its employees, especially when dealing with use of paid leave. The claimant has not rebutted the employer's evidence that she was not seen by the doctor on the date in question and the administrative law judge must conclude that she gave incorrect information to the employer to explain her absence on the day in question. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of February 24, 2004, reference 04, is affirmed. Jeannene Schipper is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjf