

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLETTA E TRIPP**  
Claimant

**APPEAL NO. 08A-UI-08233-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**  
Employer

**OC: 05/25/08 R: 03**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Coletta Tripp filed an appeal from a representative's decision dated September 11, 2008, reference 03, which denied benefits based upon her separation from Kelly Services Inc. After due notice was issued, a hearing was held by telephone on September 30, 2008. Ms. Tripp participated personally. The employer participated by Jason Mead, Staffing Manager.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct in connection with her work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer most recently on July 30, 2008. Ms. Tripp was assigned to work as a production worker at Top's, a client employer. The claimant was scheduled to work 11:00 p.m. until 7:00 a.m. on the long-term assignment. Her contact person at Kelly Services was Jason Mead.

The claimant was separated from her employment with Kelly Services Inc. after she left work without authorization or notice to either the client employer or to Kelly Services during the 11:00 p.m. to 7:00 a.m. shift on the night of July 30, 2008. The claimant left because of "pressure" related to an hourly wage that was less than she desired and personal financial problems.

It is the employer's expectations that individuals assigned to work at client employers will work the shift assigned and that workers will provide reasonable notice if they are required to vary their scheduled work shift. Because the claimant left work without authorization she was removed by the client and separated by Kelly Services from any future temporary employment with the company based upon the circumstances of her leaving.

## REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Tripp was discharged for misconduct in connection with her employment. It does.

The evidence in the record establishes that Ms. Tripp left a scheduled work shift for no compelling reason and without authorization on the night of July 30, 2008. Ms. Tripp made no effort to provide a notice of her leaving or to request permission from the client employer or from Kelly Services although an answering machine was available for the claimant to leave a message. Because of the non-compelling nature of the claimant's leaving the work shift without authorization and without notice, the client employer removed the claimant from the assignment and Kelly Services discharged the claimant from employment because the employer considered her conduct to be unreasonable.

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.

For the reasons stated herein the administrative law judge concludes that the employer has sustained its burden of proof in showing the claimant's discharge took place for misconduct in connection with her work. The claimant knew or should have known that leaving work without authorization or notice could result in her termination from employment.

**DECISION:**

The representative's decision dated September 11, 2008, reference 03, is affirmed. The claimant was discharged for misconduct. Unemployment insurance benefits are withheld until the claimant has worked and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided that she is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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