

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALONDA S TRIPP**

Claimant

**APPEAL NO. 08A-UI-08678-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**

Employer

**OC: 08/31/08 R: 04  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Alonda Tripp, filed an appeal from a decision dated September 26, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on October 14, 2008. The claimant participated on her own behalf and with witness Anthony Baylark. The employer, West Liberty Foods, participated by Human Resources Manager Jean Spiesz. Exhibits One, Two and Three were admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Alonda Tripp was employed by West Liberty Foods from November 14, 2004 until September 3, 2008 as a full-time boxer working from 3:30 p.m. until midnight. On August 29, 2008, the claimant was sent home on suspension by Human Resources Manager Jean Spiesz between 5:30 p.m. and 6:00 p.m. for calling her lead person a "fat whore." After being told she was being sent home she returned to gather her personal belongings and, while back at the line, ripped up the temperature log sheet and a label log sheet she had been filling out as part of her work duties.

This was witnessed by one employee, Esmerelda, who reported it to a utility person, Eulalio, and he gathered up the pieces of the logs and gave them to Supervisor Paul McCormick. Mr. McCormick sent an e-mail to Ms. Spiesz. The human resources manager called Ms. Tripp on September 2, 2008, and told her not to return to work that day as the employer was going to investigate the destruction of documents. At that time the claimant admitted she had torn up the documents and alleged it was because she had made a mistake and was going to "do over" the entire document.

Ms. Tripp had attended at least three training sessions on how to do the documentation properly. Any mistakes on entering proper temperature are to be crossed out and initialed, the

entire document is not to be destroyed. The claimant was also interviewed by Ms. Spiesz on September 3, 2008, at which time she again admitted to tearing up the documents. She was discharged at that time for that incident.

### **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 has alleged she did not tear up the documents and produced a witness who stated he was present when Ms. Tripp was summoned to the office by Mr. McCormick on August 29, 2008, and was also present when she returned from the office when she simply took the papers off her clipboard without tearing them up. However, the administrative law judge does not find this witness to be credible as he changed his testimony regarding where he was when these incidents occurred and what time they occurred. He at one point mentioned he was referring to matters which occurred on Wednesday, August 27, 2008.

Ms. Tripp was punched out at 6:00 p.m. at which time Mr. Baylark would have been at his own work station some distance away. Ms. Tripp asserts Mr. McCormick took her badge away when she was suspended and allegedly held on to it for more than two hours before punching her out, time for which she was paid. The administrative law judge does not find this to be credible. In addition, the temperature log sheets show she made entries as late as 5:35 p.m., which she asserts was actually done by another employee and she had only entered a reading from 3:35 p.m. and was sent home shortly after that. But the handwriting all appears to be the same

and lends credence to the employer's testimony she was suspended and sent home around 6:00 p.m., at which time Mr. Baylark would not have been present to see any of her actions as he was working elsewhere.

The record supports the employer's contention the claimant was discharged for destruction of the company records. Her claim to the human resources director that she was going to redo the documents because she made a mistake is not likely as she was being sent home at that time and would not have had the opportunity to redo the documents before leaving. She deliberately destroyed important records which the employer needed to meet the food processing standards. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of September 26, 2008, reference 01, is affirmed. Alonda Tripp is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs