

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WENDY L VASILAS**  
Claimant

**YOUNG MENS CHRISTIAN ASSN**  
Employer

**APPEAL NO: 12A-UI-00260-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/05/10  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated December 30, 2011, reference 05, that held she was discharged for misconduct on November 11, 2011, and benefits are denied. A hearing was held on February 13, 2012. The claimant did not participate. Tami Ruppel, Payroll Administrator, Sarah Deutsch, Employment Service Director, and Sheila, Treu, Program Director, participated for the employer. Employer Exhibit One was received as evidence for the hearing.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment on March 19, 2007, and last worked for the employer as a part-time living coach on November 11, 2011. The employer issued a verbal warning to claimant on September 28, 2011 for rude or insubordinate conduct toward staff.

The employer operates a program called ChildWatch, and claimant's son Noah participates in it. On October 25, the employer advised claimant it was suspending her son from this program for one-month due to a behavior issue. The employer issued a written warning to claimant on October 27 that she acknowledged for her inappropriate and unprofessional behavior toward staff in reacting to the suspension. The warning states a further incident will lead to employment termination.

Claimant attempted to have her suspended son be with her in an employer run group exercise class. She continued to voice her objection to staff about this issue and her son being in GroupWatch the next day, and in following days. A staff person related to the employer on November 8 about claimant's negative and unprofessional behavior. The employer terminated claimant on November 11 for intentionally ignoring the employer instruction with 30-day

suspension that her son not be permitted to be involved in ChildWatch and for her unprofessional behavior toward staff.

Claimant failed to appear for the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on November 11, 2011, for insubordination and repeated acts of unprofessional behavior.

The claimant knew the reason for the employer suspending her son from an employer sponsored children activity for 30-days, but deliberately tried to circumvent the suspension. Her continuing disregard of the employer instruction and policy coupled with her unprofessional behavior toward staff constitutes job disqualifying misconduct.

**DECISION:**

The department decision dated December 30, 2011, reference 05, is affirmed. The claimant was discharged for misconduct on November 11, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs