

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER L HUSKY
Claimant

APPEAL NO. 06A-UI-10293-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HENRY COUNTRY MEMORIAL
HOSPITAL**
Employer

**OC: 09/24/06 R: 04
Claimant: Respondent (2)**

Section 96.5(1) – Quit
Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Henry County Memorial Hospital, filed an appeal from a decision dated October 17, 2006, reference 05. The decision allowed benefits to the claimant, Amber Husky. After due notice was issued, a hearing was held by telephone conference call on November 6, 2006. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by General Manager David Watt and Chef Manager John Thompson.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer or was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Amber Husky was employed by Henry County Memorial Hospital from December 5, 2005 until September 25, 2006. She was a part-time dietary technician.

During the course of her employment Ms. Husky had been counseled several times regarding her temper. Chef/Manager John Thompson also advised her that her defiance of authority and unwillingness to follow orders and do her job needed to stop. She tended to make accusations against other employees, involved upper management in the disputes, and spread rumors among her co-workers in an attempt to incite them to “take sides” with her against others. The work environment became very hostile.

On September 21, 2006, she complained to General Manager David Watt about her lead worker, accusing the other person of persecuting her. The general manager investigated, talking to both parties as well as other employees and found no basis for Ms. Husky’s complaint. On Sunday, September 24, 2006, she called the hospital vice president and accused this same individual of striking her. Another investigation was done and the complaint was unfounded. Other staff members stated they felt the claimant was the source of the hostility and rumors.

The decision was made to discharge the claimant but she was given the opportunity to resign if she wished and she took that option.

Amber Husky filed a claim for unemployment benefits with an effective date of September 24, 2006. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

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 did sign a resignation, but only because she was allowed that option rather than have a discharge on her employment record. However, continuing work would not have been available to her had she not signed the resignation. She was discharged for insubordination, spreading rumors, creating a hostile work environment, and making false accusations against co-workers. The employer has the obligation to provide a safe and harassment-free work environment for all employees, and the claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of October 17, 2006, reference 05, is reversed. Amber Husky is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw