

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY L HOBMEIER**  
Claimant

**APPEAL NO. 10A-UI-13882-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRIENDSHIP HAVEN INC**  
Employer

**OC: 09-05-10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 1, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 17, 2010. The claimant did participate. The employer did participate through Amy Porter, Director of Human Resources.

**ISSUE:**

Was the claimant discharged due to job related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a LPN full time beginning February 8, 2007 through September 7, 2010 when she was discharged. The claimant was discharged when the employer received a letter from the Department of Human Services notified them that the claimant was not eligible to work for a health care facility due to a founded child abuse decision. The claimant knew when she was hired that she had to maintain her eligibility to work in a health care facility by maintaining her good standing with the Department of Human Services.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This situation is much like the situation where an employer requires an employee to maintain a driver's license or eligibility for a gaming license. Without such a license, the employer is prohibited from employing an individual. It is up to the employee, or in this case, the claimant to maintain her eligibility to work for the employer. The claimant's inability to work in the employer's health care facility is sufficient job connected misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The October 1, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs