

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHERINE A BATES

Claimant

APPEAL NO: 14A-UI-11197-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAINSTREAM LIVING INC

Employer

OC: 10/05/14

Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 21, 2014 (reference 01) determination that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the November 18 hearing. Marcanne Lynch, Human Resource Manager; Connie Mortzedt, Program Director; and Julie Sondgeroth, Team Leader; appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on March 22, 2004. The claimant worked 32 hours a week as a support living technician. She provided support to two adults with developmental disabilities who required 24 hour supervision.

On September 14, 2014 the claimant took one of the adults she supervised shopping. She took this individual on an extended outing, which included going to her home. The claimant left the other individual unsupervised. The unsupervised individual becomes anxious when he does not know when staff will return. This individual can be left alone for a couple of hours, but not for an extended time. The guardian for the individual who stayed at the home reported he had been left alone and unsupervised for an extended time. After the employer learned about the September 14 incident, the employer suspended the claimant on September 19. The employer informed her they would review the September 14 incident and let her know if she still had a job by September 23.

The individual the claimant took on an extended outing on September 14 called the claimant's phone when she was suspended. On September 21 the claimant called this individual's guardian. During this phone conversation, the claimant was upset. She told the guardian she may lose her job because of the September 14 incident. The claimant told the guardian about the other individual and that she had left this person alone too long.

The guardian then contacted the employer because she was concerned about the safety of her child. The guardian also tried finding out more information about the reasons for the claimant's suspension. Based on information the claimant shared about the other individual who had been left alone, the employer concluded the claimant provided confidential information to this guardian in violation of the employer's policy.

The employer discharged the claimant on September 25. The employer discharged the claimant because she contacted a guardian and disclosed confidential information about another individual the claimant supervised.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The facts establish the claimant called a guardian in part because the guardian's son had been calling the claimant during her suspension. The claimant also called the guardian because she was worried she would lose her job. The claimant explained to the guardian what had happened on September 14. The claimant also and provided information to the guardian about the other person the claimant supervised. Providing information about another individual violated the employer's confidentiality policy. Since the claimant has worked since 2004, the claimant knew or should have known what information she can release about individual's she supports. The claimant committed work-connected misconduct when she talked about the other individual. As of October 5, 2014 the claimant is not qualified to receive benefits.

DECISION:

The representative's October 21, 2014 (reference 01) determination is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. As of October 5, 2014 the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

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