

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARA K PATTON**

Claimant

**APPEAL NO: 13A-UI-03460-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PER MAR SECURITY & RESEARCH CORP**

Employer

**OC: 02/17/13**

**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated March 13, 2013, reference 01, that held the claimant was not discharged for misconduct on February 19, 2013, and benefits are allowed. A telephone hearing was held on April 24, 2013. The claimant participated. Jon Gilbert, Site Supervisor, and Shauna Schroeder, HR Representative, participated for the employer. Employer Exhibit 1 was received as evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began employment on October 13, 2011, and last worked for the employer as a full-time security officer on February 19, 2013. She received the employer policies in an employee handbook. Leaving work site without permission during work hours is a terminable offense.

A security officer reported to the site manager that claimant had left a signed service report and paperwork at the Dows job site sometime after midnight. The usual practice is to do this at the end of a work shift. Claimant had been assigned a 12-hour work shift from 6:00 p.m., Sunday, February 17 to 6:00 a.m., Monday, February 18. It is classified as a roving work assignment as claimant would travel to and from the Dows to Alden location. She would check the facilities and drive around the area.

The site manager arrived at the Dows location around 4:30 a.m. and confirmed claimant had left the paperwork in a company vehicle with the work cell phone and key card entrance for Dows facility. Claimant was not observed at the maintenance area at 6:00 a.m. upon concluding her shift.

HR advised claimant not to report for further work and she was questioned about her whereabouts. The employer concluded its investigation that claimant had violated policy by abandoning her job post and she was discharged on February 19. Claimant denies she abandoned her work post as it was necessary to use a personal vehicle to perform the security job. She also states that signing the service report prior to the end of the shift was a customary work practice.

**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 administrative law judge concludes the employer has failed to establish that the claimant was discharged for misconduct in connection with employment on February 19, 2013.

The employer discharged claimant for a single incident of security policy violation as there was no evidence offered of any prior discipline for this reason. The fact the site manager waited until 4:30 a.m. to investigate this matter diminishes the seriousness of this situation if the employer believed claimant had abandoned her post just after midnight. There is no physical evidence that refutes claimant testimony she used the company vehicle and her personal vehicle (that is permissible) to do her security roving between site locations.

While prematurely signing and completing paperwork might be contrary to good work practices it does not establish claimant abandoned her post, any more than leaving the company cell phone in a vehicle that was low on gas. Job disqualifying misconduct is not established.

**DECISION:**

The department decision dated March 13, 2013, reference 0,1 is affirmed. The claimant was not discharged for misconduct on February 19, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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