

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEXANDER K DAYWAY**  
Claimant

**APPEAL NO. 08A-UI-06004-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOSAIC**  
Employer

**OC: 05/18/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Alexander Daway appealed an unemployment insurance decision dated June 20, 2008, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 15, 2008. The parties were properly notified about the hearing. Daway participated in the hearing. Lynn Corbeil participated in the hearing on behalf of the employer with witnesses, Carol Mau and Julie Maas. Exhibits One through Four were admitted into evidence at the hearing.

**ISSUE:**

Was Daway discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The employer is an organization that provides services to persons with developmental disabilities. Alexander Daway worked full time for the employer as a direct support associate working in a group home setting. Daway was informed and understood that under the employer's work rules, the employer had the right to transfer any employee to a job at the same level and category that the employee currently was in.

Daway's primary work location was at the Payton Home where he worked with four developmentally disabled men. He also worked as requested and as needed twelve times at the SE 20th Home where he worked with four developmentally disabled women. Up until April 2008, Daway had not refused or objected to working at the SE 20th Home.

In April 2008, management decided to transfer Daway to the SE 20th Home because one of the female clients there seemed to have less problems working with male employees. On April 29, 2008, the employer informed Daway that he was being transferred to the SE 20th Home and his first day at the SE 20th Home would be May 20, 2008.

On May 1, 2008, Daway spoke to the employer's executive director, Carol Mau, about his transfer. Mau explained that he was being transferred due to a client's needs and transfers were allowed under the employee handbook. Daway shared his concerns about being transferred and said he could not work with female clients. Mau said she would honor his

request if he explained why he could not work with female clients since he had worked many times with female clients before. She told him if he could not work with female clients, it would affect his overtime hours since many of the employer's clients were female. Daway then stated that he could work with female clients. He also told Mau that one of his supervisors had treated him disrespectfully. Mau told Daway that she would look into his complaint. When the meeting ended, Mau believed Daway had accepted the transfer to the SE 20th Home starting on May 20, 2008.

On May 20, 2008, Daway reported to work at the Payton Home. He reported there because he had not gotten a written notice regarding his transfer and Mau had not resolved his complaint about his supervisor yet. He did not believe the transfer was for client needs but instead believed the supervisor who had treated him disrespectfully was behind the transfer. He was directed by the program coordinator, Kelly Thompson, to immediately report to the SE 20th Home or he would be fired. Daway went home and did not report to the SE 20th Home as he was directed. On May 23, 2008, the employer sent Daway a letter informing him that his employment was terminated due to his failure to report to the SE 20th Home.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether Daway was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

Daway's violation of the direction to report to his assigned work location on May 20, 2008, was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of Daway. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated June 20, 2008, reference 01, is affirmed. Daway is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs