

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIANNA M THOMPSON**  
Claimant

**APPEAL NO. 07A-UI-05563-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LUTHER CARE SERVICES/HOME FOR  
THE AGING**  
Employer

**OC: 04/29/07 R: 02  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Tianna Thompson filed an appeal from a representative's decision dated May 29, 2007, reference 02, which denied benefits based upon her separation from Luther Care Services. After due notice was issued, a telephone conference hearing was scheduled for and held on June 20, 2007. Ms. Thompson participated personally. The employer participated by Reba Larson and Helma Marcotoca.

**ISSUE:**

At issue in this matter is whether Ms. Thompson was discharge from employment for misconduct in connection with her work.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and considered all of the evidence in the record, the administrative law judge finds: The claimant worked for this employer from August 2006 until April 30, 2007 when she was discharged for violating the company's violence in the workplace policy. Ms. Thompson worked as a full-time dietary aide and was paid by the hour. Her immediate supervisor was Reba Larson.

The claimant was discharged after it was reported by two company employees and a resident that Ms. Thompson had engaged in threatening conduct towards another employee on April 27, 2007. At that time the claimant and another worker had asked for the location of a third worker and confronted the third worker in a shower area threatening harm to the third worker. The employer investigated the matter and found the claimant not to be credible in her statement that she was attempting to mediate a conflict between the other two workers. Based upon the organization's policy prohibiting violence or the threats of violence in the workplace, Ms. Thompson was discharged from her employment.

## **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes based upon the evidence in the record that the employer has sustained its burden of proof in establishing that the claimant's discharge took place under disqualifying conditions. The claimant was aware of the company's policy which prohibited violence or the threat of violence in the workplace. Ms. Thompson was discharged after two company employees as well as a resident verified that the claimant had engaged, along with another employee, in threatening statements towards a third worker on April 27, 2007.

Although the administrative law judge is aware that Ms. Thompson's position is that she was attempting to mediate an issue between the two workers, the administrative law judge finds the claimant's testimony to strain credibility. The employer's firsthand witness confirms that the claimant engaged in threatening statements on the day in question and corroborates the statements of other individuals who were present at the time. The claimant's threatening statements showed a willful disregard for the employer's interests and standards of behavior that the employer had a right to expect under the provisions of the Iowa Employment Security Act. The claimant was therefore discharged for misconduct in connection with her work.

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.

For reasons stated herein the administrative law judge finds that the claimant was discharged for misconduct. Benefits are denied.

## **DECISION:**

The representative's decision dated May 29, 2007, reference 02, is hereby affirmed. The claimant was discharged for misconduct. Benefits are withheld until such time as she has

worked in been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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