

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE M SMITH
Claimant

APPEAL NO. 10A-UI-16647-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 10/10/10
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 1, 2010 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on January 18, 2011. Claimant participated. Employer participated through Human Resources Generalist Jessica Shepherd. Employer's Exhibit 1 (fax pages 3 through 8) was admitted to the record.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a production worker and was separated from employment on October 7, 2010. On September 27 she was seen by her treating physician for a personal medical issue involving bronchitis and shoulder pain. She was given a note to be excused from work from that date through Monday, October 4, with a return to work date of October 5, 2010. She provided the note to the employer with the return to work date altered to October 7, 2010. The employer obtained a fax copy of the original from the doctor because it suspected an alteration. (Employer's Exhibit 1, fax page 6) When confronted by the employer, she talked about two notes – one in the car and one on the counter and acknowledged recalling that she was to return to work on Tuesday, October 5. At hearing, she blamed the alteration on her girlfriend's ex-boyfriend, who "hates" her and had access to the car. At the fact-finding interview, she claimed she was unaware the note had been tampered with.

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.

Claimant's three variations on the explanation of the date discrepancy between the medical notes and her denial of altering the note renders her testimony incredible. Her falsification of the medical note regarding the return to work date was job-related misconduct. Benefits are denied.

DECISION:

The December 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw