

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA S FIET
Claimant

APPEAL NO. 09A-UI-17392-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC
Employer

**Original Claim: 10/18/09
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Cynthia Fiet, filed an appeal from a decision dated November 6, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 28, 2009. The claimant participated on her own behalf. The employer, Lutheran Services of Iowa (LSI), participated by Program Supervisor Denise Headington.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Cynthia Fiet was employed by LSI from August 17, 2007 until September 23, 2009 as a full-time family support worker. Every year, employees are given the opportunity to have a copy of the employee handbook or else sign a statement they have reviewed the policies on line. Ms. Fiet signed she had reviewed the policies online but did not. One of the ethical standards prohibits conflict of interest, which is defined generally as “engaging a client in activities which would normally be considered part of a friendship” such as dining out together or going to entertainment activities.

Ms. Fiet had been working with a particular family and paying some of their expenses out of her own pocket such as rent, utilities, and some fees for one of the members to attend a batterers education program. Program Supervisor Denise Headington had admonished the claimant it was not a good idea for her to do this and any monies should be given anonymously to the program fund which helped families to meet these expenses. She did not do so.

On September 8, 2009, the claimant received a call from a department of human services worker who informed her the husband had been arrested for domestic assault. She met with the wife and found no physical signs of injury or abuse. On September 14, 2009, she received a call from the husband, who said he was going to be in court the next day and requested her to

attend. After the court appearance, the claimant called her spouse and asked him to use their personal funds to bail out this person, which he did, and then the client moved into their house.

Ms. Fiet reported to Ms. Headington on September 15, 2009, the client had moved into her home. The supervisor said this was a conflict of interest and she also feared for the claimant's safety because of this client's history of domestic abuse. Human Resources Director Marty Swanson was consulted and she did not know the appropriate course of action to take, and so she consulted with Human Resources Coordinator Lori Meyer. On September 18, 2009, Ms. Headington learned the claimant had posted the bail for this client and that information was passed along to Ms. Swanson and Ms. Meyer.

The claimant filled out a conflict of interest statement on September 22, 2009, in which she acknowledged all of the activities. Ms. Headington considered her to be a good worker and discussed with her supervisors the possibility of retaining Ms. Fiet as an employee in spite of the ethical violation. The decision was made to discharge her because of the seriousness of the ethical violation and Ms. Headington notified her of the discharge on September 23, 2009.

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 claimant had acknowledged she had reviewed the employer's policies and procedures, even though she did not actually do so. Nonetheless, she is held accountable for knowing the

code of ethics involved in performing her job. It is evident Ms. Fiet became personally involved with the family members who were her clients, giving them money to pay their bills even though she was advised not to do this by her supervisor. This is skating the edge of the ethics in and of itself. But, her decision to post bail for the husband and then allow him to live in her home goes beyond the professional limits of her job. She formed a personal relationship with this person instead of referring him to other persons or agencies who could assist him. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of November 6, 2009, reference 01, is affirmed. Cynthia Fiet is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw