

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELVIN HODGES
Claimant

APPEAL NO. 13A-UI-11860-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESLEYLIFE
Employer

OC: 09/08/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 9, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on November 14, 2013. Claimant participated. Employer did participate through Lydia Webber, Care Coordinator; Betty Stone, Director of Human Resources; Heidi Vanden Hull, Administrative Coordinator and was represented by Frank Eckhart of Talx UCM Services Inc.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a home care aide beginning on August 18, 2008 through September 12, 2013 when he was discharged. On August 29 the claimant remained at a home of client after he finished working with the client. The claimant and the client ate, drank alcoholic beverages and smoked cigarettes. The employer's handbook, a copy of which had been given to the claimant prohibits employees from socializing with clients. The claimant had been given a copy of the employer's policies and knew what was required of him. The client later complained about the claimant's behavior to the employer. When the employer learned of the event the claimant was suspended while the employer investigated. The claimant was subsequently discharged when the employer learned that the claimant had violated the rules and policies. The client complained that the claimant had intimidated him. While the claimant disputes this, had he not been socializing with the client in the first place, the issue never would have come up. The claimant had a prior warning in June 2012 that put him on notice that further incidents of rule violations would lead to his discharge.

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 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The employer has good reason for requiring that employees not socialize with clients. It was not up to the claimant to decide which of the employer rules he would or would not follow. The client later complained about the claimant's behavior. The claimant's actions are sufficient job connected misconduct to disqualify the claimant from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The October 9, 2013, (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs