

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SANDRA KITTLE
60444 LEVI RD
GLENWOOD IA 51534-5142

SIMMONDS RESTAURANT MGMT INC
BURGER KING
C/O JOHNSON & ASSOCIATES
P O BOX 6007
OMAHA NE 68106-0007

Appeal Number: 06A-UI-05567-BT
OC: 04/16/06 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96 5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Sandra Kittle (employer) appealed an unemployment insurance decision dated May 22, 2006, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Burger King (employer) for work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 28, 2006. The claimant participated in the hearing. The employer

participated through Judy Hespen, Divisional Vice-President and Employer Representative Dawn Gibson.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed full-time from October 1993 through April 17, 2006, when she was discharged due to repeated negative and unprofessional behavior. She started as an hourly employee, promoted to an assistant manager and then a general manager. Although the claimant had many positive attributes, she had continued difficulty handling her employees and was repeatedly counseled on this issue. Since the beginning of the year, the employer discussed problems with her on three separate occasions.

On January 13, 2006, the employer spoke with the claimant about how she interacts with other managers. There were continued complaints that she was condescending and insulting and as a result, the turnover rate in her store was high. The employer discussed with her that they were having a hard time getting other managers to help cover the restaurant due to the claimant's poor treatment of them. The claimant agreed that she needed to work on her "people skills" but claimed she was just upholding company standards. On January 24, 2006, the employer again met with the claimant about increased turnover at her restaurant. The employer talked with the claimant about a new district manager coming into the restaurant and that the claimant needed to work with her. On March 22, 2006, the claimant approached the employer with her concerns about the restaurant. She told the employer she wanted to eliminate any future discussion about her being hard to work with since she felt that was part of the problem she was experiencing with her employees. The employer agreed that discussions with other managers would be eliminated so as not to interfere with the claimant's working relationships but the employer also discussed with the claimant her concern over the claimant's refusal to admit that she was part of the problem.

The claimant left was on vacation April 3, 2006 through April 15, 2006. On April 8, 2006, the divisional vice-president went to the claimant's restaurant to discuss the associate general manager's notice to quit. The manager reported that she was quitting because she no longer wanted to work with the claimant and relayed some additional but similar examples of problems with the claimant. That same day, an hourly employee approached the vice-president and

asked to transfer to a different restaurant because of how the claimant treated her. And finally before she left, an assistant manager also notified the vice-president that she was no longer willing to work with the claimant. The vice-president discussed the information with other members of management and the decision was made to terminate the claimant as it was determined that she was unable or unwilling to change her management style. The claimant was discharged after she returned from vacation.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Ref 14, 15

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged because of poor management skills since employees were unwilling to work with her. She admits she has high standards but denies doing anything wrong. However, it is not the claimant's opinion that is relevant but those she worked with and too many employees were leaving the restaurant as a direct result of how the claimant treated them. The claimant's continued unacceptable conduct 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 the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated May 22, 2006, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

sdb/