

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA L MULLEN
Claimant

APPEAL NO: 07A-UI-10593-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOTAL SOURCE MOLDERS INC
Employer

**OC: 09/02/07 R: 03
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 13, 2007, reference 06, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on December 4, 2007. Claimant participated. Employer participated through Mike Vogel.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time operator from October 15, 2007 until October 17, 2007 when she was discharged. She initially told Vogel, "You should hire my husband, he's got plastics experience." The second time when she asked Vogel, "Why haven't you hired my husband?" he told her, "This is a decision between me and the applicant and has nothing to do with you." The third time she asked him about hiring her husband, Vogel said nothing and walked away but decided to fire her in conjunction with reports from other employees that on October 16 she did not follow instruction of quality technician who explained to her that her production counts need to be accurate. She told her "I know what I'm doing; you don't need to check on me." This encounter was confirmed by the second shift supervisor who said she is combative, does not listen and is disruptive.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

Claimant's failure to leave the issue of hiring her husband alone after Vogel's instruction to leave the matter to him and the applicant, as well as her failure to take instruction, is evidence of willful misconduct. Benefits are denied.

DECISION:

The November 13, 2007, reference 06, 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/pjs