

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA K HAMMER
Claimant

APPEAL NO: 12A-UI-13543-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

B & D SERVICES INC
Employer

OC: 10/14/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated November 2, 2012, reference 01, that held she was discharged for misconduct on October 10, 2012, and benefits are denied. A telephone hearing was held on December 11, 2012. The claimant participated. Julie Schwarting, Executive Director, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment as a full-time program assistant on September 3, 2002, and last worked for the employer on October 10, 2012. The claimant had been issued written warnings on July 16, 2012 and September 12 for failing to timely submit progress notes with corrections. The employer needs the notes to bill for client services. She was put on suspension with a warning her job was in jeopardy.

Claimant did have some emotional health issues but she was not advised by her doctor to request any accommodation at work. The employer offered claimant assistance but claimant refused. She was given work deadlines to turn in progress notes in phases in September. As of October 8 she had turned in less than 50 percent of the past due notes and the employer discharged her on October 10.

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 administrative law judge concludes the employer has established claimant was discharged for misconduct in connection with employment on October 10, 2012. The employer gave claimant adequate warnings to let her know her job was in jeopardy and it was willing to provide assistance that claimant refused. Job disqualifying misconduct is established.

DECISION:

The department decision dated November 2, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on October 10, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css