

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY N DONAHUE
Claimant

APPEAL NO. 12A-UI-02034-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OX YOKE INN INC
Employer

OC: 01/15/12
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Brandy N. Donahue filed a timely appeal from an unemployment insurance decision dated February 22, 2012, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held March 16, 2012 with Ms. Donahue participating. Kathy Rasmussen, Elizabeth Green and Bill Leischenring testified for the employer which was represented by Pat McNichol of TALX UC eXpress.

ISSUE:

Was the claimant discharged for misconduct in connection with the employment?

FINDINGS OF FACT:

Brandy N. Donahue was employed as a server by Ox Yoke Inn from June 24, 2011 until she was discharged January 4, 2012. The final incident leading to her discharge occurred on December 31, 2011 when Ms. Donahue argued with Shift Supervisor Elizabeth Green over duties to be performed that evening. In particular, Ms Donahue wanted to leave early rather than wrap silverware, a normal duty of servers at the end of the shift. The argument extended over a long period of time. At one point Ms. Donahue followed Ms. Green from the dining area to the laundry area as Ms. Green prepared to wash linens. Ms. Donahue had received a prior warning because of a customer complaint and because she had given herself a refill on a cup of soup without paying for the refill.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the employment. It does. Although Ms. Donohue sought to minimize the conflict between her and Ms. Green on December 31, the evidence persuades the administrative law judge that the dispute extended over a fairly long period of time after Ms. Green had made it clear that Ms. Donohue could not leave until she had wrapped her quota of silverware. Viewing this in the context of prior warnings in a period of employment that lasted barely six months, the evidence is sufficient to establish misconduct. Benefits are withheld.

DECISION:

The unemployment insurance decision dated February 22, 2012, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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