

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TAMARA E NELSEN**  
Claimant

**JOHNSTON COMMUNITY SCHOOL  
DISTRICT**  
Employer

**APPEAL 15A-UI-01998-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/18/15**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 3, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 8, 2015. Claimant participated. Employer did not participate.

**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 part-time as a school bus driver beginning on February 14, 2014 through January 20, 2015 when she was discharged. When the claimant was hired she was given a copy of the employer's handbook and policy manual and knew she was obliged to follow those rules and instructions. She signed for a copy of the rules and agreed that she would follow them. The rules required that any employee who was arrested report the arrest to the employer within five days of the arrest. The claimant knew she was obligated to report the arrest to her employer, but was not sure when she had to do so. She planned to report the arrest on January 21, the day she was to be arraigned. She did not contact the employer to ask when the arrest should be reported. The employer learned of the arrest and called her in prior to her reporting the arrest to them. The claimant was discharged on January 20 or 26, 2015 for her failure to timely report the arrest.

**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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew she was obligated to report her arrest to her employer and she did not do so. If she was unsure about when she had to report, she could have sought assistance from her human resources department. She did not. The employer as a school district certainly has an interest in knowing which employees may be facing criminal charges. The claimant's failure to timely report her arrest under these circumstances is sufficient misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The February 3, 2015 (reference 01) 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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