

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA M BROWN
Claimant

APPEAL NO: 11A-EUCU-00906-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 08/08/10
Claimant: Respondent (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 21, 2011 determination (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the claimant is not qualified to receive benefits as of November 20, 2011.

ISSUE:

Did the employer discharge the claimant for reasons that constitute work-connected misconduct?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients. The employer assigned the claimant to a job on November 3, 2011. This assignment was an on-going job.

The client ended the claimant's assignment on November 17 because the claimant took food from another employee and made it look like another employee, not the claimant, took the food. The claimant forgot her tortillas for her lunch. She took another employee's tortillas without asking this employee. The claimant left a note in Spanish that she would replace the tortillas the next day. The employer who discovered her tortillas were missing blamed a Spanish-speaking worker. This employee had nothing to do with the missing tortillas. After employees reported that the claimant took the tortillas, the claimant admitted to the employer she had done this.

The claimant reopened her claim the week of October 23, 2011. She has not received any benefits, because she has exhausted her benefits.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's decision to take another employee's food without permission and then try to place the blame for this act on an innocent person amounts to work-connected misconduct. As of November 20, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 21, 2011 determination (reference 05) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 20, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw