

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACQULYNN BAUMFALK**  
Claimant

**APPEAL NO: 12A-UI-04197-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CLARKE COUNTY ANIMAL SHELTER INC**  
Employer

**OC: 02/26/12  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jacquelyn Baumfalk (claimant) appealed an unemployment insurance decision dated April 9, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from the Clarke County Animal Shelter, Inc. (employer) for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 16, 2012. The claimant participated in the hearing with her sister Billie Sweeney. The employer participated through Board Members Megan Tooker, Sue Modeland and Doug Miller. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time shelter manager from January 25, 2011 through March 2, 2012 when she was discharged. The state auditor's office had been asked to conduct an audit of the Clarke County School cheerleading account where the claimant previously worked as the cheerleading coach. On February 2, 2012, the state auditor's office publicly released its findings that the claimant misappropriated over \$10,000.00 from the Clarke County Community School District. This information was in the news and the auditor's report was made public. Due to a conflict of interest, the Clarke County Attorney referred the case to the Iowa Attorney General's office and the matter has not yet been resolved.

The employer is a non-profit agency supported by donations from the public. There had been a significant decrease from financial revenue since the claimant's date of hire and after the auditor's report became public, the operations committee met with the claimant on February 5, 2011. The auditor's report was discussed and the claimant was advised the employer was

going to do a review of its financial records. Initially, treasurer Sue Modeland audited ten different animal records and found minor discrepancies in seven of those files and major issues in four. The four animal records that were of serious concern showed no record of any financial deposits corresponding to the activities listed within the files. The employer charges \$65.00 to adopt a cat and \$100.00 to adopt a dog. When an owner surrenders an animal, the agency charged \$35.00 and if an owner reclaims an animal that was picked up by the shelter, the fee is \$25.00 for the first day and \$12.50 for each additional day.

The minor discrepancies in the seven files were incomplete paperwork. There were a lot of transfers from their shelter to another shelter but there were no records of the transfers. There were adoption applications that were in the files which were incomplete. The four files which had no financial records included a dog adoption on June 4, 2011, a dog adoption on September 19, 2011, a reclaim on October 14, 2011; and a surrender on January 24, 2012.

Ms. Modeland conducted a separate count of the animal adoptions, reclaims and surrenders from July 1, 2011 through February 6, 2012, which obviously did not include the claimant's complete term of employment. The count demonstrated 35 dogs were adopted and 27 cats, but 18 of the cats included a deal of buy one and get the other at half price. The shelter received \$4,270.00 for these animals but should have received \$4,770.00, which leaves a discrepancy of \$500.00. There were 34 surrendered animals and \$210.00 was deposited but the deposit should have been \$1,190.00, which amounts to a discrepancy of \$980.00. And there were 52 animals reclaimed but only \$185.00 was deposited when the shelter should have received over \$1,000.00 from reclaim fees.

There should have been receipt books documenting transactions but the first receipt book Ms. Modeland found was for January 2012. The shelter receives cash and check donations and while there is a record of the check donations, there is no record of any cash donations. The employer has a manager's account for incidental expenses in the operation of the shelter. The claimant was given a debit card for this account into which \$200.00 is deposited monthly. The entire \$200.00 was used each month. She used the account appropriately the first few months of her employment but she began taking out cash withdrawals. The employer questioned her why she was taking out cash and the claimant said she took out the cash because it was embarrassing if she went to the store and tried to use it only to find out there was not enough money in the account. The claimant never provided the employer with any receipts to items she purchased with this cash, nor did she keep any kind of an accounting list as to where it was spent.

A full board meeting was held on February 9, 2012 and based on the financial evidence provided by Ms. Modeland, the board made the decision to discharge the claimant. It was a very hard decision for the board members to make since the claimant is very well liked by all and it was hard to believe she could have misappropriated these funds. The board did not want the discharge to be humiliating to the claimant and did not want her separation to be hard on the animals, since the claimant regularly worked with these animals. The operations committee notified the claimant of its decision on February 11, 2012 but advised her she could continue working until March 2, 2012, which she did.

A more detailed analysis was conducted after the claimant's separation. It was determined that the average monthly revenue from February 2010 to February 2011 was \$3,475.94 but during the claimant's tenure it was only \$2,517.38. It has only been a couple months since the claimant separated from her position but since her termination, the average monthly revenue has risen to \$4,321.04. The employer testified that it would never know the complete loss of revenue during the claimant's employment. During the hearing and in response to the

claimant's question, the employer said it would subsequently be reporting this information to the attorney general's office.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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 employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on March 2, 2012 but was notified of the termination decision on February 11, 2012. She was discharged for misappropriation of funds. Although the employer was prompted to investigate its financial records after the state auditor reported the claimant misappropriated funds from the Clarke County Community School District, it does not make its own findings any less significant. The employer has met its burden. The claimant's misappropriation of the employer's funds shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer.

**DECISION:**

The unemployment insurance decision dated April 9, 2012, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until 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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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs