

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER L LUBECK**  
Claimant

**APPEAL NO. 09A-UI-11908-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHEROKEE COUNTY**  
Employer

**Original Claim: 07/19/09  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 13, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on September 2, 2009. Claimant participated with Kevin Holzhauser and was represented by Jay Smith, Attorney at Law. Employer participated through Dave Scott, Cherokee County Sheriff.

**ISSUE:**

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a dispatcher from February 20, 2001 and was separated on July 20, 2009. Claimant talked to Scott urging him not to promote fellow dispatcher Stacey McGee because she said deputy Kurt Moy told her McGee had been sleeping in the communications center. Moy denied the comment. Scott explained to claimant that there had been a minor issue a few years ago and it was resolved and a memo was issued to the five dispatchers on February 8, 2008 about sleeping in the communications center and bringing personal belongings into the center during shifts. Claimant was in competition with McGee for the job and was dissatisfied with Scott's response, so she told county supervisor Mark Leeds and employees in the auditor's office that McGee had been sleeping on the job. Claimant and McGee did not work the same shift. The supervisors denied McGee's promotion, Scott confronted claimant about talking about McGee to the supervisor and auditor's office employees, and she denied it. Scott obtained camera footage showing her at the auditor's office and dispatcher Celeste Moore said claimant tried to get her to go with her to the supervisors and talk to them about McGee but Moore declined. Scott fired claimant for dishonesty in telling him she had not "blacklisted" McGee when she had.

**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.

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.

An employer is entitled to expect honesty from its employees, especially in a circumstance where emergency communications are the norm. Claimant's dishonesty about her communication outside of the sheriff's office about McGee amounted to job-related misconduct. Benefits are denied.

**DECISION:**

The August 13, 2009, 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw