

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PRISCILLA A LATHAM**  
Claimant

**APPEAL NO. 13A-UI-03824-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JASPER COUNTY**  
Employer

**OC: 02/17/13**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Priscilla Latham (claimant) appealed an unemployment insurance decision dated March 22, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Jasper County (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 26, 2013. The claimant participated in the hearing. The employer participated through Dennis Simon, Wendy Hecox and John Halferty. Employer's Exhibits One through Nine were admitted into evidence.

**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 part-time jailer/transport officer from June 11, 2012 through February 12, 2013 when she was discharged for a repeated failure to follow directives. The incident prompting the termination occurred on February 5, 2013 when she received a call from or on behalf of Judge Steve Holwerda indicating he was ready for initial appearances. The claimant did not notify other jail staff that the judge was ready for initial appearances and after 20 minutes, the judge left. Consequently, the initial appearances needed to be scheduled for later that day. She indicated she assumed that arrangements had already been made to do the initial appearances later that same day.

The claimant had received several previous disciplinary warnings for failure to follow the employer's standard procedures and her six-month probationary period had been extended so she could receive additional training. She met with the Chief Jailer on August 29, 2012 regarding her performance issues. The claimant was having problems booking people in and continued to have problems even after being given a check list. She was not keeping up with

the log books as required and needed to work faster when controlling the electronic doors. The claimant received formal staff counseling on September 13, 2012 for letting a civilian into the jail unescorted on September 4, 2012 and for not properly writing receipts for inmate money on September 6, 2012.

The employer sent her to jail school from November 26, 2012 through November 30, 2012 to assist her with learning her job duties. This cost the employer approximately \$1,300.00 to \$1,400.00. The claimant received written warnings and staff counseling on January 8, 2013 for letting a civilian into the jail without knowing who they were on December 17, 2012 and for not properly recording inmate money on December 28, 2012. The claimant was also counseled on that same date for discussing an inmate's medical issue in front of other inmates on December 28, 2012.

### **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 § 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 February 12, 2013 for a repeated failure to follow directives. Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew her job was in jeopardy and was capable of following the employer's procedures but failed to do so. Even if she believed other arrangements had been made for the initial appearances, it was her duty to follow up and ensure that was the case. The claimant's lack of regard for following policy and reasonable directives 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. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 22, 2013, 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