

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LISA M DE RONDE**  
Claimant

**WESLEYLIFE**  
Employer

**APPEAL 16A-UI-06848-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/22/16**  
**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 June 7, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 7, 2016. Claimant participated. Employer participated through Amanda Parker, Care Coordinator and was represented by Jennifer Groenwold of Equifax.

**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 full-time as a home health aide beginning on August 15, 2014, through May 23, 2016 when she was discharged. The claimant was discharged for falsification of her time sheet on May 19. The claimant had previously been warned about her attendance and knew that being late to work was unacceptable.

The claimant was to visit a client on May 19 at 10:00 a.m. At 10:30 a.m. the client called Ms. Parker because the claimant had not arrived for her visit and she had an appointment 45 minutes away that the claimant was supposed to be taking her to. When the client made the call, the claimant had not yet arrived at her home. As the client was talking to Ms. Parker, there was a knock at her door. The person who arrived was the claimant. The claimant learned of the client's appointment when she arrived at the client's home. The claimant then called Ms. Parker at 10:37 a.m. to complain that the appointment had not been on the calendar. When filling out her time sheet for that day, the claimant indicated she had arrived at the client's home at 10:10 a.m. The employer knew that could not be true as the client called at 10:30 a.m. and the claimant had not yet arrived. The claimant had motive to falsify her time sheet to keep the employer from learning how late she was to the client's home as she had previously been warned about her attendance. The claimant knew that she could lose her job if she put false information on her time sheet.

## 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).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the

evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the claimant's testimony was not credible. Ms. Parker was on the telephone with the client at 10:30 a.m. and the claimant had not arrived. If the claimant had arrived at 10:10 a.m. as she testified, it would not have taken her 27 minutes to call Ms. Parker. The claimant supplied false information on her time sheet which is theft of time from the employer. The claimant had motivation to provide false information as she had been warned about her poor attendance. The claimant's falsification of her time sheet amounts to substantial misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The June 7, 2016, (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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