

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE ANN DYNES
Claimant

APPEAL NO. 09A-UI-09885-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT CARE MIDWEST INC
Employer

OC: 05/03/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 24, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on July 27, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a certified nursing assistant from September 15, 2008, to January 21, 2009.

The claimant was scheduled to work on January 21, 2009, at 10:30 p.m. That afternoon, she was sitting in the car in the ShopKo parking lot while her husband was in the store. Her husband was caught shoplifting and arrested. The claimant was also detained in jail. The claimant was not involved in the theft and did not know her husband planned to steal things in Shopko.

The claimant's daughter notified the employer before the start of her shift that she would not be reporting to work. The claimant was released from jail at about 11:30 p.m. She was not charged with any crime.

She contacted the director of nursing, Kate Delaney, and was informed that she needed to meet with Delaney before reporting to work. The claimant met with Delaney on January 27. Delaney told the claimant that the employer did not "want your kind here." Delaney then tried to get the claimant to write in a notebook that she was quitting her job, but the claimant refused. The employer discharged the claimant because she was absent from work when she was in jail.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant did not quit her job, she was discharged by the employer. Based on the evidence presented, no work-connected misconduct has been proven.

DECISION:

The unemployment insurance decision dated June 24, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs