

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KAREN L POST
502 ELLIS AVE
OTTUMWA IA 52501

TENCO INDUSTRIES INC
710 GATEWAY DR
OTTUMWA IA 52501

Appeal Number: 06A-UI-07025-SWT
OC: 06/11/06 R: 03
Claimant: Appellant (5)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 3, 2006, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 31, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Kim Parks. Joanie Lundy participated in the hearing on behalf of the employer with a witness, Kim Case. Exhibit A, B, C and One were admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked for the employer as a program instructor in the employer's workshop for the disabled from December 13, 2004, to June 13, 2006. She was informed and understood that under the employer's work rules, insubordination was grounds for discharge from employment. Kim Case was the claimant's supervisor.

On June 8, 2006, the claimant placed a newspaper on a chair outside of Case's office. Staff used the paper as part of the vocational training process. When she set the newspaper down, she announced there was no way she was taking the newspaper over to another department. Case overheard the comment and believed the claimant was exhibiting a negative attitude regarding employees in the other department. The claimant and one of the employees in the other department had a hostile relationship. Case had been required to handle conflicts between the employees in the past. As a result, Case drafted a memo and distributed it to all the staff warning them that they would be disciplined if Case heard any negative comments directed to another staff member or program. The memo stated, "I would like everyone to sign this memo and give it back to me so that I have a record that you received it."

On June 13, 2006, Case asked the claimant and other employees if they had signed the memo and if they were ready to turn it in. The claimant refused to sign the memo because she did not believe that she should be warned for something that she did not do. Later, when the claimant was in the human resources manager's office, she was informed that not signing the memo was considered insubordination. When the claimant again refused to sign the memo, the human resources manager informed her that her services were no longer needed. The employer discharged the claimant for insubordination because of her conduct and refusal to sign the memo.

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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's violation of a direct order from a supervisor was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. By signing the memo, the claimant was not admitting to any wrongdoing but was simply acknowledging receipt of the memo. The employer acted reasonably in requiring the claimant to acknowledge receipt of the memo. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated July 3, 2006, reference 01, is modified with no change in the outcome of the case. The claimant was discharged for work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/kjw