

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUMMER D BLYTHE**  
Claimant

**APPEAL NO. 13A-UI-10537-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JAI SHRI INC**  
Employer

**OC: 11/11/12  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 6, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on October 7, 2013. Claimant participated along with her boyfriend, Matt Bix and was represented by Jim Hamilton, Attorney at Law. Employer participated through Polly Butler, General Manager. Employer's Exhibit One was entered and received into the record.

**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 part time as a guest service representative beginning on April 3, 2013 through August 15, 2013, when she was discharged. On the evening of August 14 the claimant let her boyfriend into a hotel room to use it without having him pay for it. The claimant, her boyfriend and his child all ate breakfast at the hotel the next morning. The breakfast is not for employees, only for paying guests. The claimant had no right to eat herself or to allow her boyfriend and his child to eat. The claimant had never asked the employer to make any kind of accommodation for her diabetes. The claimant had received the employer's handbook and policy book which makes clear that she is not to misuse company property. The claimant had no right to give away use of a guest room for any period of time, nor did she have a right to give her boyfriend breakfast. The claimant was not discharged because she had a work-related injury, but because she misappropriated the employer's property. The claimant had no diabetic emergency; she simply wanted her boyfriend with her.

**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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant had no right to give use of a guest room to anyone. She did so without permission. She had received a copy of the employer's handbook and policy manual. An employee knows or should know that they cannot give away the employer's food or use of the employer's property, to do so amounts to theft from the employer. Even a small theft is sufficient misconduct to disqualify the claimant from receipt of unemployment benefits.

The claimant was not discharged because of any alleged work-related injury. She was discharged for her admitted misuse of company property. Benefits are denied.

**DECISION:**

The September 6, 2013, (reference 02) 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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