

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARA DAACK
Claimant

APPEAL NO. 09A-UI-18553-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC
Employer

**Original Claim: 11/08/09
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Kara Daack (claimant) appealed an unemployment insurance decision dated December 3, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Lutheran Services in Iowa, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 21, 2010. The claimant participated in the hearing. The employer participated through Debra DeVenuta, Program Supervisor, and Dan King, Disability Department Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a case worker for services for people with disabilities from August 27, 2007 through November 10, 2009, when she was discharged for a repeated failure to follow directives. Case workers have three days in which to turn in their session notes, but the claimant continually failed to follow this required guideline. Failure to complete her session notes in a timely manner delayed billing and could cause productivity data to be skewed. The claimant received written warnings for her delinquent notes on January 9, March 18, and October 26, 2009. She knew her job was in jeopardy but still did not have her October 2009 notes in by November 9, 2009 and the employer was unable to bill for the claimant's services until the following month.

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 claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged on November 10, 2009 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 employer had repeatedly warned the claimant that she had to have her case notes in on time, but she failed to do so. The claimant's refusal to follow 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 December 3, 2009, 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw