

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANET R WALKER
1206 SEYMOUR ST
TAMA IA 52339-1422**

APPEAL NO. 09A-UI-16487-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IA DEPT OF JUDICIAL ADMINISTRATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

APPEAL RIGHTS:

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:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319***

**JOHN WERNER
ATTORNEY AT LAW
PO BOX 249
120 EAST HIGH ST
TOLEDO IOWA 52342**

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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANET R WALKER
Claimant

APPEAL NO. 09A-UI-16487-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF JUDICIAL ADMINISTRATION
Employer

OC: 10/04/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 23, 2009, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on December 22, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with her attorney, John Werner. David Williams participated in the hearing on behalf of the employer with a witness, Kim Halverson. Exhibits 1 and 2 were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as an employee of the clerk of courts office for Tama County and Marshall County from June 28, 1998, to August 12, 2009. Kim Halverson, the clerk of courts, was her supervisor. Her work hours were from 8:00 a.m. to 4:30 p.m., Monday-Friday.

The employer placed the claimant on paid administrative leave effective August 12, 2009, pending an investigation into some missing cash bonds in the Tama County Clerk of Court's office. She was discharged on September 30, with the effective date of the discharge of August 21, 2009, based on the conduct discovered during the course of the investigation discussed below.

The claimant was an hourly employee who repeatedly worked overtime hours off the clock, without permission, and in direct violation of directives she had been given by Halverson on February 26 and April 3, 2009. She worked substantially past the 4:30 p.m. in violation of the directive on April 6, 9, 13, and 27. Although she was doing so to get caught up with her work, she had been previously informed that this was an unacceptable reason for work overtime hours. Halverson discovered this violation during the investigation that took place while the claimant was on administrative leave.

The claimant sometimes was not able to date stamp documents filed by attorneys and parties before the 4:30 p.m. close of business due to the workload in the office. She would roll back the time on the date/time stamp machine to show the document had been filed during office hours. This was in direct violation of a directive Halverson had sent to the claimant and other employees on February 26, 2009, not to manually change date/time stamp machine. Halverson discovered during the investigation that the claimant had continued to manually roll back the machine after the directive.

The claimant was required to post payments received from parties on the day the money was received. During the investigation, Halverson discovered instances when the claimant failed to post the payments later than the day that the payment was received or after office hours on the day.

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's violation of work rules and instructions 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. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. I conclude that although the overtime violations were in April, they still have to be considered current acts of misconduct because Halverson did not discover them until after her investigation into the claimant's conduct following her being placed on administrative leave.

DECISION:

The unemployment insurance decision dated October 23, 2009, reference 01, is affirmed. 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.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs