

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARCY R HANSEN**  
Claimant

**APPEAL NO. 07A-UI-08952-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LINN COUNTY HUMAN RESOURCES DEPT**  
Employer

**OC: 08-19-07 R: 03  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 13, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 3, 2007. The claimant did participate and was represented by Peter Welch, Attorney at Law. The employer did participate through Joyce Clark, Supervisor, (representative) Lisa Powell, Human Resources Manager and Mike Stevenson, Treasure of Linn County.

**ISSUE:**

Was the claimant discharged for work-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a clerical specialist full time beginning June 6, 1988 through August 16, 2007 when she was discharged.

The claimant worked as a clerk in the motor vehicle department of Linn County. She knew how to properly conduct a transaction to transfer a title. The claimant knew that if she wanted to sign for her son she had to have a power of attorney in order to do so. The claimant signed her son's name twice on both an application for a lien and on an assignment of title. At the time she signed her son's name she did not have a power of attorney to do so.

The claimant had the car titled in her son's name because she was barred from having a registration in her name because of drunk driving convictions. The claimant, as an employee of the motor vehicle division of Linn County knew that in order to sign her son's name she had to have a power of attorney. The claimant was making the final transfer so that the car could be released from impound. The claimant admitted to her employer during the investigation that she had signed her son's name without a power of attorney and submitted the paperwork to transfer the title.

The claimant also falsified the purchase price of the vehicle when she indicated the transfer had been made. On the form the claimant indicated it was \$200.00 but in reality it was \$200.00 as well as a motorcycle.

The employer discovered the situation when Robin Reece came into the office to try and locate her vehicle and the claimant's son's name came up on the title. The claimant's son has never used the car as the claimant indicated it was only put in her son's name because she could not register a car in her own. When the employer made the discovery on August 7 they investigated immediately and after meeting with the claimant where she admitted her actions, instructed the claimant that she could either resign or she would be discharged.

**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.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The claimant knew as a long term employee of motor vehicle division of Linn County that in order to sign her son's name to documents she needed to have power of attorney. She did not have the proper permission to make the signatures and thus violated the law. The employer has a right to expect their own employees to follow the law they are entrusted to enforce for members of the general public. The claimant's long term service indicates that she knew or should have known that her actions were a violation. The claimant's argument that 'everyone' did what she did is unpersuasive in convincing the administrative law judge that her actions do not constitute misconduct. The claimant's testimony that she saw others perform similar acts, yet never reported them also fails to convince the administrative law judge that her actions do not constitute misconduct. Her argument that she gained nothing from the transaction is similarly not believable in light of the fact that the car is in her garage currently. She has possession of the car, certainly an asset for her. Lastly, she used the car by her own admission at her credit union for a loan, that was certainly a financial gain for her. The claimant knew her actions were unacceptable yet engaged in them anyway. In light of her position with the agency responsible for enforcing the same rules and regulation she violated against members of the general public, her actions do constitute sufficient misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The September 13, 2007, reference 01 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. Inasmuch as no benefits were claimed or paid, no overpayment applies.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs