

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIANNE D WILLILAMS
Claimant

APPEAL NO. 13A-UI-05424-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

INSIGHT PARTNERSHIP GROUP LLC
Employer

OC: 04/14/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 2, 2013, reference 01, which denied unemployment insurance benefits. After due notice, a hearing was held in Burlington, Iowa, on July 24, 2013. Ms. Williams participated personally. The employer participated by Mr. Evan Clouse, President and Ms. Judy Buffington, Life Skills Specialist/Site Supervisor. Claimant's Exhibit One was received into evidence.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Marianne Williams was employed by Insight Partnership Group, LLC as a part-time life skills specialist from April 15, 2012 until April 16, 2013 when she was discharged from employment. Ms. Williams was paid by the hour. Her last immediate supervisor was Judy Buffington.

Ms. Williams was suspended from work on April 11, 2013 after the employer concluded that Ms. Williams had failed to give out medications on April 9, 2013, but blamed the failure on her supervisor, Ms. Buffington. Ms. Williams had been given a final warning from the employer on February 25, 2013 and was warned that further disciplinary action could result in her termination. When placed on suspension pending the April 9, 2013 allegations, Ms. Williams was specifically instructed that she was not to report back to the worksite until an investigation had been completed.

The following day, Ms. Williams went to the group home where she was employed. The claimant parked on an adjacent driveway. Ms. Williams then berated and upset the other residents. The employer considered the claimant's most recent conduct, going to the worksite after being instructed not to, to be insubordination and another example of the claimant's failure to follow instruction or rules.

The claimant denies blaming Ms. Buffington for the previous medication error and that she had made no errors herself. Ms. Williams denies going to a worksite in violation of her employer's directive, maintaining that she happened to park in property adjacent to the group home and denies that her statements to residents or staff were upsetting.

REASONING AND CONCLUSIONS OF 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.

The employer has the burden of proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. The focus is on deliberate, intentional or culpable acts on the part of the claimant.

In the case at hand the evidence is disputed. The administrative law judge having questioned the witnesses, having considered their responses and having viewed their demeanor concludes that the weight of evidence is established in favor of the employer.

The evidence establishes that Ms. Williams was discharged after receiving a previous final warning and that the claimant was discharged for making intentionally inaccurate statements about her supervisor and by visiting the group home while on suspension in violation of specific "directives" that had been issued to her. The administrative law judge thus concludes that the evidence establishes that Ms. Williams was discharged under disqualifying conditions. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated May 2, 2013, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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