

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LUERESSA R OUTLAW
439 CHERRY ST
WATERLOO IA 50703

CARE INITIATIVES
c/o JOHNSON & ASSOCIATES
PO BOX 6007
OMAHA NE 68106-0007

Appeal Number: 05A-UI-02052-BT
OC: 01/16/05 R: 03
Claimant: Appellant (1)

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 the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

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.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96 5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Lueressa Outlaw (claimant) appealed an unemployment insurance decision dated February 17, 2005, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Care Initiatives (employer) for work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 15, 2005. The claimant participated in the hearing. The employer participated through Larry Westendorf, Environmental Supervisor; Lori Hanson, Accounting; and Employer Representative Lynn Corbeil. Employer's Exhibits One through Three were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time laundry/housekeeper from May 17, 1995 through January 13, 2005. She was discharged for her failure to follow the employer's directives. On May 25, 2004, the claimant was scheduled to work until 12:00 p.m., but everyone had been told they had to stay until 3:00 p.m. because the state surveyors were there. The claimant left at 12:00 p.m. without permission. On May 28, 2004, she also left almost an hour early when the work was not done. Consequently, she was given a three-day suspension and a final written warning. The employer advised her that any future violations would result in her immediate termination.

Employees could leave before the end of his or her shift if their work was done, provided, that everyone had their work done. It was clearly posted that if an employee is done with her own work but the other laundry worker is not done, the first employee needs to stay and help until all the work is done. The claimant again refused to follow this directive and left work early on January 12, 2005. She was scheduled to work until 2:00 p.m. but left at 12:40 p.m. even though there was a lot of work yet to be done. The claimant did not obtain permission to leave early and did not tell anyone she was leaving. The employer became aware of the claimant's departure as the other employee called to request help. The claimant later reported she had a doctor's appointment at 1:30 p.m. that day and even though it was scheduled several days earlier, she never mentioned the appointment to her employer and never asked permission to leave early that day.

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 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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 for refusing to follow the employer's directives and leaving work before the end of her shift when the laundry work was not completed. 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 claimant felt like the other worker did not do her work so that she could get help from the claimant when the claimant completed her work. However, the employer's directives were clear in that no employee could leave until all the work was done. The claimant willfully ignored this directive even though she was on a final written warning for the same issue. 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 February 17, 2005, 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.

sdb/sc