

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARI I BRANNEN

Claimant

APPEAL NO. 10A-UI-11815-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLINTON STAFFING COMPANY

Employer

OC: 07/18/10

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 19, 2010 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on October 7, 2010. Claimant participated. Employer participated through human resources representative Jane Brown.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a temporary laborer at Skyline Center from December 3, 2009 and was separated from employment at both the assignment and Clinton Staffing Company on December 31, 2009. She had missed work the day before due to illness and when she reported to work other employees told her she would not get to leave early for the holiday because she would not be able to make quota for the three days in a row. She complained to the Skyline supervisor Tracey and asked to be put on another line because she did not want to help that line make quota if she was not going to be allowed to leave early. Tracey told her to go to the employer with her complaint if she did not like it so claimant left during the shift and not on break time to complain to the employer, located across the street. She waited for about a half hour and returned to Skyline when she was unable to talk to a specific person at Clinton Staffing. She went back to the line and complained generally that she did not think it was fair she would not get to leave early with the line that she worked on. She returned to Clinton Staffing later during the shift and was fired.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The employer has the right to allocate its personnel in accordance with its needs and available resources. Her failure to work on the line to which she was reasonably assigned and leaving work on non-break time was insubordination, which was misconduct sufficient to warrant a denial of benefits.

DECISION:

The August 19, 2010 (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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs