

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VELETA M JACKSON
Claimant

APPEAL NO. 08A-UI-11396-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RESCARE INC
Employer

**OC: 11/16/08 R: 03
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Veleta Jackson, filed an appeal from a decision dated December 4, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 18, 2008. The claimant participated on her own behalf. The employer, Rescare, participated by Office Manager Susan Lay, Regional Director Joanna Smith, Service Coordinator Jody Steward, and Program Director Vanessa Weller.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Veleta Jackson was employed by Rescare from March 9, 2001 until November 17, 2008 as a full-time community support staff person. On November 13, 2008, the claimant was at a client's home performing her regular job duties. The client called the Rescare office to leave a message for Service Coordinator Jody Steward. After leaving the message, the phone did not get disconnected and a verbal exchange between the client and Ms. Jackson was recorded.

In the exchange the claimant told the client to "shut up, Goddammit," "you're nothing but a damn tattle taler anyway. Mind your own business," "Shut up, I'm not going to listen to it," and "you're driving me crazy," and "shut up!" The employer listened to the recording the same day and determined this was a violation of the policies regarding the respectful treatment of clients. Ms. Jackson was absent on Friday, November 14, 2008, and when she returned to work on Monday, November 17, 2008, she was brought into the office. The recording was played for her and she acknowledged she had made the comments. At that time she was discharged.

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 claimant was discharged for disrespectful treatment of a client. These are dependent adults with physical and mental disabilities for whose care the employer is responsible. Whether or not the claimant was frustrated by the client's behavior or the work situation is irrelevant. Her conduct bordered on abuse of a dependent adult and is conduct not in the best interests of the employer.

DECISION:

The representative's decision of December 4, 2008, reference 01, is affirmed. Veleta Jackson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw