

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

KAREN L HELMICK
15074 ROUTE V64
DOUDS IA 52551-8183

THE DEXTER COMPANY
2211 W GRIMES
PO BOX 310
FAIRFIELD IA 52556

Appeal Number: 06A-UI-05051-C
OC: 04/02/06 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
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Karen Helmick filed an appeal from a representative's decision dated April 17, 2006, reference 01, which denied benefits based on her separation from The Dexter Company. After due notice was issued, a hearing was held on June 13, 2006 in Ottumwa, Iowa. Ms. Helmick participated personally and Exhibit A was admitted on her behalf. The employer participated by Greg Hanshaw, Human Resources Supervisor. Exhibits One through Five were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Helmick at her address of record on April 17, 2006. She filed an appeal by fax on April 26 but, it was not received by Workforce Development. When she learned that it had not been received, Ms. Helmick re-faxed the appeal on May 12, 2006.

Ms. Helmick was employed by The Dexter Company from November 10, 1997 until March 14, 2006. She was employed full-time as a foundry laborer. She was discharged for falsifying a document.

Ms. Helmick saw Dr. Timothy Blair on March 6, 2006 and was released to return to work on March 8. She returned to work on March 13 and presented a doctor's note indicating she was released to return to work effective March 13, 2006. The note appeared to have been altered and, therefore, the employer asked Ms. Helmick on March 14 whether she had changed the note. She acknowledged that she had done so because she did not want to return to work on March 8 due to problems with her children. She was suspended on March 14 and notified of her discharge on March 15, 2006. The falsification of the doctor's statement was the sole reason for the discharge.

Ms. Helmick learned on or about March 8 that her daughters, ages 8 and 15, had been abused by caregivers. She did not return to work on March 8 because her daughters needed her for emotional support. Ms. Helmick did not seek a leave of absence from the employer or give notice that she needed to be away from work for personal reasons.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Ms. Helmick's appeal should be considered timely filed as required by Iowa Code section 96.6(2). She initially submitted her appeal on April 26, prior to the deadline. However, through no fault of her own, the appeal was not received. Because she was not at fault in the non-receipt, Ms. Helmick's appeal filed on May 12, 2006 shall be deemed timely filed. As such, the administrative law judge has jurisdiction over the separation issue.

The next issue in this matter is whether Ms. Helmick was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer has the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Helmick was discharged for falsifying a doctor's statement in order to have additional time off work. It is understandable that she would want to remain off work given the information she had just learned from her daughters. However, she was not justified in altering the doctor's statement regardless of how compelling the reasons for her absences.

Ms. Helmick could have sought a leave of absence to spend time with her daughters. She could have explained the situation to the employer to see if the absences would be counted against her. Instead, she altered the return-to-work date on a doctor's statement. Her conduct constituted dishonesty, which is contrary to the type of behavior an employer has the right to expect. For the reasons stated herein, it is concluded that the employer has satisfied its burden of proving misconduct. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 17, 2006, reference 01, is hereby affirmed. Ms. Helmick was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/pjs