

**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**

**LINDA A SUNDVOLD  
1304 CENTRAL AVE  
HAWARDEN IA 51023**

**HOPE HAVEN INC  
1800 – 19<sup>TH</sup> ST  
ROCK VALLEY IA 51247**

**Appeal Number: 05A-UI-03172-AT  
OC: 02-27-05 R: 01  
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, 4<sup>th</sup> 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:

Linda A. Sundvold filed a timely appeal from an unemployment insurance decision dated March 23, 2005, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held April 8, 2005 with Ms. Sundvold participating. Adult Residential Services Manager Jeri Hass and Lead Instructor Jennifer Kortemeyer participated for the employer, Hope Haven, Inc. Employer Exhibit 1 and Claimant Exhibit A were admitted into evidence.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Linda A. Sundvold was employed as an associate instructor by Hope Haven, Inc., from January 7, 2002 until she was discharged February 3, 2005. The instant which lead directly to her discharge occurred on the morning of February 3, 2005 when Ms. Sundvold argued loudly with her supervisor, Jennifer Kortemeyer, in front of four clients. Ms. Sundvold argued about matters which had been addressed repeatedly over the previous few days. Ms. Kortemeyer had not intended to discharge Ms. Sundvold that morning. Ms. Sundvold, however, continued arguing in front of the clients, inviting Ms. Kortemeyer to discharge her. Ms. Kortemeyer eventually sent Ms. Sundvold home and referred the matter to Adult Resident Services Manager Jeri Hass. After reviewing the situation, Ms. Hass determined that discharge was the appropriate action.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Sundvold was discharged for misconduct. It does.

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).

Ms. Sundvold denied arguing with Ms. Kortemeyer. Ms. Kortemeyer's testimony was detailed, internally consistent and consistent with the behavior displayed by Ms. Sundvold in the hearing. The administrative law judge concludes that Ms. Sundvold was discharged for repeatedly arguing with managers about instructions and carrying on the arguments in front of the employer's clients, the people for who Ms. Sundvold was providing services. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated March 23, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

tjc/tjc