

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACY L RINGLABEN
Claimant

APPEAL NO: 14A-UI-07024-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOLLY MAGUIRES LLC
Employer

OC: 06/01/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 26, 2014, reference 01, that held she was discharged for misconduct on June 4, 2014, and benefits are denied. A telephone hearing was held on July 31, 2014. The claimant participated. Roger Hanish, Owner, participated for the employer. Exhibits 1 - 5 were received as evidence.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on May 10, 2013, and last worked for the employer as a part-time bartender on June 4, 2014. She worked anywhere from 15 to 25 to 30 hours a week.

Claimant let the employer owner know in mid-April 2014 that she was planning a career move. She did not give the employer notice she was going to leave on any specific date.

Claimant last worked a few hours on May 29, and she was scheduled to report at 7:00 p.m. on June 4. The manager called claimant the morning of June 4 to ask if claimant could come in early. Claimant was unable to meet the request due to car trouble. Later in the day when the problem was solved, she learned from customers she had been fired. Claimant did confirm this with the manager the following day.

Claimant never received any written warning for violation of work rules and/or other conduct prior to discharge. She denies any verbal warning. The manager discharged claimant without consulting the employer owner.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The administrative law judge concludes employer failed to establish claimant was discharged for misconduct on June 4, 2014.

The employer owner kept emphasizing in the hearing claimant was going to quit that has no bearing on the manager decision to discharge without consulting him. There was no written warning for adverse conduct and no evidence in the employer documents claimant was verbally warned.

As to the recent incident, claimant was not scheduled to work prior to her 7:00 p.m. shift, so there was no misconduct for her inability to do it. Due to a lack of warnings and this recent situation, job disqualifying misconduct is not established.

DECISION:

The department decision dated June 26, 2014, reference 01, is reversed. The claimant was not discharged for misconduct on June 4, 2014. Benefits are allowed, provided claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs