

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN BOYT
Claimant

APPEAL NO. 12A-UI-09366-W

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 07/01/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a fact-finding decision dated July 25, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 5, 2012 in the Iowa City workforce office. Claimant participated personally. Employer participated by Director of Labor Relations, David Burgeon. Exhibits A and B were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds:

Claimant was employed as a full-time staff nurse beginning in 1982. He was discharged on June 8, 2012 by employer for dishonesty in connection with his employment. Specifically, the employer accused the claimant of submitting falsified applications which resulted in tuition being waived for certain courses at the University of Iowa. This occurred between January 2009 and May 2012.

The employer has a policy which allows employees to take classes through the University for free for the purpose of professional development. During the period in question, the claimant submitted forms for various classes which were not related to professional development for his job. He signed his superior's name on several of these forms.

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.

871 IAC 24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

871 IAC 24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct.

In this matter, the greater weight of evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning tuition reimbursement.

The claimant did provide a plausible explanation for the documents. He essentially claimed that his understanding of the policy was that he was allowed to audit any classes at the University.

He claimed that his supervisor, Cindy Dawson had given him permission to sign on her behalf. It was his understanding that each time he took a course, his supervisor was given notice. This argument is plausible, in part, because Ms. Dawson did not testify under oath at the hearing. Nevertheless, the greater weight of evidence supports the employer's conclusion that the documents were intentionally falsified. The claimant admitted that he signed many of the documents. He stated that he believed that she had given him permission but acknowledged that he did not receive an explicit approval each time he signed a document.

The claimant's assertion that he received a blanket approval to sign for his supervisor is not credible particularly in light of Mr. Burgeon's testimony as it related to the investigation. During the investigation, the claimant initially maintained that his supervisor had signed all the documents until he was confronted with the employer's statement that she had not. He then admitted that he had signed the documents. While the employer's case would have been even more compelling had Ms. Dawson testified at hearing, the employer has still met its burden of proof without her testimony. As such, claimant is ineligible for benefits.

DECISION:

The fact-finding decision dated July 25, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/css