

**BEFORE THE
EMPLOYMENT APPEAL BOARD
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Website: eab.iowa.gov**

HEATHER R WALKER

Claimant

: **APPEAL NUMBER:** 24B-UI-00667

: **ALJ HEARING NUMBER:** 24A-UI-00667

:

and

:

EMPLOYMENT APPEAL BOARD

:

DECISION

LINN COUNTY HUMAN RESOURCES

:

DEPT

:

:

Employer

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

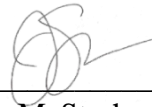
The Board adds the following analysis to the Reasoning and Conclusions of Law:

The Claimant asserts that the text message in question was accidentally sent to a co-worker. She asserts that it was not in reference to a co-worker, but to some other female who had made an unwanted call. So the Claimant's story is that while at work she got a call from this person and then texted the wrong person, and it was just a coincidence that (1) D.O. Hudson had just called off that night requiring a double shift for the Claimant, and (2) Claimant texted a remarkably relevant text message to the wrong person by accident. Against this coincidence the Employer's version of events is simply that D.O. Hudson called in sick, the Claimant was understandably upset by this, and the Claimant then texted D.O. Hinson, on purpose, stating "Yup dumb bitch called." It is a perfectly reasonable inference that this was in reference to D.O. Hudson, and we find the Claimant's argument that Hudson's name was not actually mentioned to be, at best, disingenuous. The Employer's story is more credible, and we find that the Claimant not only sent this inappropriate text about a co-worker to a co-worker on work time, but she then lied about it to the Employer. She was fired for both these things and we find that misconduct has been proven.

In discussing a correctional officer's job, and disqualification from benefits, the Court of Appeals has observed:

[The Claimant] could reasonably be expected to maintain the highest standard of conduct and effectively carry out his responsibilities. By the very nature of the employment setting, it would be necessary to require strict compliance with rules and regulations.

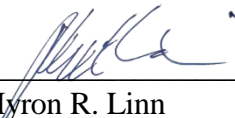
Ross v. Iowa State Penitentiary, 376 N.W.2d 642, 644 (Iowa App. 1985); *see also Huntoon v. IDJS*, 275 N.W.2d 445 (Iowa 1979)(disqualification of deputy for taking two trustees to bar on his day off). The highest standards of conduct are thus a known expectation of a law enforcement officer, and calling a co-worker names in a text to another co-worker while on work time, and then lying about it, is obviously not consistent with these standards. *White v EAB* 448 N.W.2d 691 (Iowa App. 1989)(nurse disqualified for providing misinformation during internal investigation). The Claimant's infractions are exactly the sort of thing the public, and therefore the Employer, has a right to expect a law enforcement officer not to do. *Ross v. Iowa State Penitentiary*, 376 N.W.2d 642, 644 (Iowa App., 1985)(finding misconduct and noting that with a correctional officer "by the very nature of the employment setting, it would be necessary to require strict compliance with rules and regulations.") *Huntoon v. IDJS*, 275 N.W.2d 445 (Iowa 1979)(disqualification of deputy for taking two trustees to bar on his day off) *accord e.g. Burmeister v. Muscatine County Civil Service Com'n*, 538 N.W.2d 877, 878-79 (Iowa App. 1995)("judgment and discretion" required and "discipline must be strictly enforced"); *City of Fort Dodge v. Civil Service Com'n of the City of Fort Dodge*, 562 N.W.2d 438, 440 (Iowa App. 1997)(same for police officer); *Eilers v. Civil Serv. Comm'n*, 544 N.W.2d 463, 466 (Iowa App.1995)(same); *Sieg v. Civil Serv. Comm'n of the City of W. Des Moines*, 342 N.W.2d 824, 829 (Iowa 1983) ("Police departments are akin to paramilitary organizations, and discipline must be strictly enforced."); *Milligan v. Ottumwa Civil Service*, No. 18-1810 (Iowa App. 11/6/2019) (Affirming termination where officer lies in internal investigation); *Myers v. Employment Appeal Board*, 462 N.W.2d 734, 738 (Iowa App. 1990) (calling coworker "dumb bitch" considered in misconduct decision despite the target not being present at the time). The Claimant is disqualified.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn

RRA/fnv

DATED AND MAILED: MARCH 04 2024