

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMILY C MCCORD
Claimant

IA DEPT OF HUMAN SVCS/GLENWOOD
Employer

APPEAL 19A-UI-02715-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/03/19
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 29, 2019, (reference 02) representative decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 18, 2019. Claimant participated. Employer participated through Natalie McEwen, Human Resources Supervisor and was represented by Melissa Hill of Corporate Cost Control. Employer's Exhibit 1 was admitted into the record.

ISSUE:

Was the claimant discharged due to job connected misconduct sufficient to disqualify her from receipt of unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a resident treatment worker beginning on March 28, 2005 through February 25, 2019, when she was discharged. Claimant's job required she work with dependent adults. Anyone desiring to work with dependent adults for this employer must be able to pass a background check. Claimant knew that her continued employment was dependent upon her being able at all times to pass a background check.

Claimant was arrested during non-working hours. She accurately and timely reported her arrest to her employer. As a result of the claimant's report, the employer was required to run and did run a background check. The claimant did not pass her background check and was no longer considered eligible to work for this employer. The claimant was discharge for her failure to maintain a record that would pass a background check.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 claimant knew that her continued employment depended upon her ability to pass a background check. The employer is not legally allowed to employ anyone who cannot pass the required background check. The claimant's own actions led to her inability to pass the background check. Claimant's failure to maintain a record that would pass a background check was a known condition of her employment. Her failure to maintain that record is misconduct sufficient to warrant a denial of benefits. Benefits are denied.

DECISION:

The March 29, 2019, (reference 02) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs