

**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**

**AMANDA R GRAHAM  
123½ N MARKET ST  
OSKALOOSA IA 52577**

**CHRISTIAN OPPORTUNITY CENTER  
1553 BROADWAY  
PO BOX 347  
PELLA IA 50219-0347**

**Appeal Number: 06A-UI-00118-RT  
OC: 11-27-05 R: 03  
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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Amanda R. Graham, filed a timely appeal from an unemployment insurance decision dated December 29, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on January 19, 2006 with the claimant not participating. The claimant did not call in a telephone number, either before the hearing or during the hearing, where she or any of her witnesses could be reached for the hearing, as instructed in the notice of appeal. Angela Smith, Human Resources Director, and Nancy Gritters, Program Manager, participated in the hearing for the employer, Christian

Opportunity Center. Employer's Exhibits 1 and 2 were admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, including Employer's Exhibits 1 and 2, the administrative law judge finds: The claimant was employed by the employer as a full-time living skills advisor from September 19, 2002 until she was discharged on October 20, 2005. The employer provides support to persons with disabilities. The claimant was supposed to turn in timesheets and tracking sheets which provided for the billing for the employer's services every two weeks. However, the claimant had not turned in any such timesheets or tracking sheets for three months, August, September, and October of 2005. Further, the claimant had not turned in any monthly reports since July and these monthly reports must be turned in every month. The claimant's failure to turn in this paperwork resulted in her discharge on October 20, 2005. The letter of discharge appears at Employer's Exhibit 1. The claimant was supposed to meet weekly with her supervisor, Nancy Gritters, Program Manager, and initially the claimant did so but she stopped meeting with Gritters and provided no reason. Prior to the claimant's discharge, the claimant received a number of written warnings or counselings as shown at Employer's Exhibit 2. On June 3, 2005, the claimant got a formal counseling concerning her failure to properly document paperwork. The claimant also received a suspension notice on February 14, 2005 for, among other reasons, being late with paperwork and inaccuracies in the paperwork. The claimant also received a formal counseling on December 9, 2004 for, among other reasons, being late with paperwork and inaccuracies of paperwork. The claimant was also given a last chance agreement on August 13, 2004 for not completing all of her training and orientation. Finally, the claimant was given a staff improvement plan on July 8, 2004 for, among other things, her documentation on paperwork and not turning paperwork in timely and appropriately.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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).

The employer's witness, Angela Smith, Human Resources Director, credibly testified, and the administrative law judge concludes, that the claimant was discharged on October 20, 2005 when she was both so informed in person and given a letter as shown at Employer's Exhibit 1. In order to be disqualified to receive unemployment insurance benefits pursuant to a discharge, the claimant must have been discharged for disqualifying misconduct. The administrative law judge concludes that the employer has met its burden of proof to demonstrate by a preponderance of the evidence that the claimant was discharged for disqualifying misconduct. Ms. Smith credibly testified that the claimant was discharged for not turning in every two weeks timesheets and tracking sheets for three months. Ms. Smith credibly testified that the tracking sheets are required for billing purposes. Ms. Smith also testified credibly that the claimant had not turned in monthly reports since July of 2005. The claimant was supposed to meet weekly with her supervisor but stopped meeting with her supervisor and provided the employer no reason. These matters are more fully documented in Employer's Exhibit 1. The claimant failed to turn in such paperwork promptly despite repeated written warnings as shown at Employer's Exhibit 2. Accordingly, the administrative law judge concludes that the claimant's failure to turn in paperwork and meet with her supervisor are deliberate acts constituting a material breach of her duties and obligations arising out of her worker's contract of employment and evince a willful or wanton disregard of the employer's interests and are, at the very least, carelessness or negligence in such a degree of recurrence, all as to establish disqualifying misconduct. Therefore, the administrative law judge concludes that the claimant was discharged for disqualifying misconduct, and, as a consequence, the claimant is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until, or unless, she requalifies for such benefits.

#### DECISION:

The representative's decision of December 29, 2005, reference 01, is affirmed. The claimant, Amanda R. Graham, is not entitled to receive unemployment insurance benefits until, or unless, she requalifies for such benefits, because she was discharged for disqualifying misconduct.

tjc/tjc