

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELANIE M FREDERICK**  
Claimant

**APPEAL NO. 12A-UI-02805-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 02/05/12**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Melanie Frederick, filed an appeal from a decision dated March 14, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 5, 2012. The claimant participated on her own behalf. The employer, Care Initiatives, participated by Human Resources Coordinator David Mollenhoff and Administrator Diane Roberts and was represented by TALX in the person of David Williams

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Melanie Frederick was employed by Care Initiatives from March 17, 2003 until February 3, 2012 as a full-time activities coordinator. She had received a copy of the employee handbook during the course of her employment. The policies require a request for a weeks' vacation to be submitted at least 30 days in advance.

On January 22, 2012, Ms. Frederick requested a week of vacation from January 23 through 27, 2012, because her daughter, living in Ames, was ill and in the hospital. The request was made to Administrator Diana Roberts, who granted it, waiving the necessity of 30 days' notice. The claimant also mentioned that she had broken her nose when she fell while visiting the hospital.

When Ms. Roberts notified the claimant's subordinates in the activity department, one of them told her the claimant had broken her nose on January 18, 2012, before the daughter was supposedly in the hospital. On January 23, 2012, Ms. Roberts notified Human Resources Coordinator David Mollenhoff to send FML papers to Ms. Frederick so she could take the time to care for her daughter under that program. On January 24, 2012, the director of nursing said she thought Ms. Frederick's daughter had moved out of state.

The claimant returned to work on January 30, 2012, but then was absent on January 31, 2012, and provided a doctor's note excusing her for that day. On February 2, 2012, Mr. Mollenhoff informed the administrator Ms. Fredericks had declined to use FML for her daughter's illness. Ms. Roberts then met with the claimant on February 3, 2012.

At that meeting, the claimant admitted everything she had told the employer was a lie. She had not gotten a prescription refilled when she ran out around January 18, 2012, and rather than make an appointment to go to the doctor and get a refill, she decided to take herself off the medication. She knew it would make her tired, dizzy, and she could not function well. Rather than explain the situation to the employer, or get a doctor's appointment to get a refill, she lied about needing the time off and requested vacation.

The employer felt the claimant had violated the standards of honesty and integrity she should exhibit as a supervisor. She had falsified the reason for the absence so she would not have to request the vacation 30 days in advance. Ms. Roberts also considered her prior warnings for unexcused absenteeism and discharged her during the meeting on February 3, 2012.

#### **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.

The claimant knowingly and intentionally lied to the employer to circumvent the vacation policy of giving 30 days' notice for that amount of time off. While the claimant may have been

embarrassed about the problems with her medication, there is no evidence she could not have gone to the doctor and gotten the prescription renewed, or at least gone to the doctor to get a statement recommending a week off so she could "go off" medication.

Her decision to be dishonest when requesting time off is a violation of the duties and responsibilities the employer has the right to expect of an employee. An employer has a reasonable expectation of honesty and integrity from its employees and the claimant's conduct is not in the best interests of the employer

**DECISION:**

The representative's decision of March 14, 2012, reference 01, is affirmed. Melanie Frederick is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw