

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VINCENT E ROGERS
Claimant

APPEAL NO. 13A-UI-02706-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WATERLOO COMMUNITY SCHOOL DIST
Employer

OC: 02/10/13
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Vincent Rogers, filed an appeal from a decision dated March 7, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 3, 2013. The claimant participated on his own behalf. The employer, Waterloo Community School District (WCSD), participated by Human Resources Specialist Mickey Waschkat.

ISSUE:

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

FINDINGS OF FACT:

Vincent Rogers was employed by WCSD from November 28, 2011 until February 13, 2013 as a full-time behavior intervention specialist. He was counseled by Principal Brenton Shavers on January 18, 2013, about reports he had given a student a cell phone to be able to contact him outside of work. In addition, he was giving the student rides home from the library after hours. Mr. Shavers informed him his job was in jeopardy if there were any further incidents. The employer was concerned about the appearance of impropriety as well as putting the claimant and the school district in a compromising position. It was also felt the behavior conflicted with the school district's duty to provide a safe and problem free environment for all students.

On February 8, 2013, Mr. Shavers was informed the claimant had been seen giving the student a ride home again and also bought the minor student an over the counter sleep aid. The principal interviewed Mr. Rogers that day and he admitted to both purchasing the sleep aid and giving the student a ride home. He was suspended pending a review by the human resources office and a meeting set up for February 13, 2013. He was discharged at that time by Associate Superintendent of Human Resources Beverly Smith and Mr. Shavers.

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 had been advised his job was in jeopardy as a result of his fraternization with a student outside of school hours and property. In spite of this warning Mr. Rogers again gave the student a ride home and bought him sleep aids, even though the student was a minor and it was done without the knowledge and consent of his parents. Mr. Rogers gave no reasonable or logical explanation for his failure to follow specific orders from his supervisor or why he jeopardized the school district's duty to provide a safe environment for the students by fraternizing after school hours. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of March 7, 2013, reference 01, is affirmed. Vincent Rogers is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css