

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNETTE M BUCHMAN**  
Claimant

**APPEAL NO: 12A-UI-10842-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARKETLINK INC**  
Employer

**OC: 08/05/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated August 29, 2012, reference 01, that held she was discharged for misconduct on August 9, 2012, and benefits are denied. A telephone hearing was held on October 2, 2012. The claimant did not participate. Amy MacGregor, HR representative, and Kim Higginbotham, Call Center Manager, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment on April 26, 2011, and last worked for the employer as a full-time TSR on August 9, 2012. The claimant received the employer sales ethic policy. The employer received a customer complaint in early August regarding the timing of an installation service. It learned that claimant had dealt with this customer.

The complaint focused on the date the customer wanted the installation. The employer contacted the customer who confirmed November was the agreed date for the service. Claimant was gone on August 8, but the employer confronted her with the installation date the following day. Claimant responded that she would fix it by contacting the customer and confirming an August date. Later, the claimant recorded the transaction as complete for an August installation in order to receive credit for the sale.

The employer discharged claimant after a review of the recorded customer calls. Claimant violated its sales ethic policy by falsely reporting a completed sale for an August installation that the customer did not want until November.

## 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 administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on August 9, 2012, for a violation of company sales ethic policy.

While it would have been advisable for the employer to offer the transcript(s) from the recorded claimant – employer – customer calls, an employer witness did read into the record the pertinent information involving claimant's falsification. Claimant knowingly recorded a sale to a customer who wanted a November installation for August and misrepresented this as fact to the employer. This ethics policy offense constitutes job disqualifying misconduct.

**DECISION:**

The department decision dated August 29, 2012 reference 01 is affirmed. The claimant was discharged for misconduct on August 9, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs