

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMBER R LARSON**  
Claimant

**APPEAL NO. 10A-UI-10306-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KASTIM CORPORATION**  
**MCDONALD'S OF FORT DODGE #17678**  
Employer

**OC: 06/13/10**  
**Claimant: Appellant (5)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant appealed from a fact-finders decision dated July 13, 2010, reference 01, which denied benefits based upon her separation from McDonald's of Fort Dodge. After due notice, a telephone hearing held on September 15, 2010. The claimant participated personally. The employer participated by Mr. Cody Casch, Operations Supervisor.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Amber Larson was employed as a part-time crewperson for the captioned employer, doing business as McDonald's of Fort Dodge, from March 26, 2009 until June 7, 2010 when she discontinued reporting for scheduled work. Ms. Larson notified the employer on June 7, 2010 that she was going to be incarcerated for approximately one week. The claimant was discharged when she failed to report for scheduled work and had not received permission from the employer to be absent. The claimant had not preapproved time away from work and permission to be gone had not been granted to the claimant by the employer at the time of her call regarding her incarceration.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged under disqualifying conditions.

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 evidence in the record establishes that Ms. Larson was not given permission to be absent from work and had not received preauthorization to be away from work for a one-week period. The claimant's failure to report for scheduled work without advance permission was in disregard of the employer's interests and standards of behavior and thus disqualifying under the provisions of the Employment Security Law.

**DECISION:**

The representative's decision dated July 13, 2010, reference 01, is affirmed as modified. The claimant was discharged under disqualifying conditions. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, providing that she is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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