

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTINE L BATTEN
Claimant

APPEAL NO. 08A-UI-04307-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

YMCA OF OMAHA/COUNCIL BLUFFS
Employer

**OC: 04/06/08 R: 01
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Kristine Batten, filed an appeal from a decision dated April 25, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 19, 2008. The claimant participated on her own behalf. The employer, YMCA of Omaha/Council Bluffs (YMCA), participated by Human Resources Director Craig Gilmore.

ISSUE:

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

FINDINGS OF FACT:

Kristine Batten was employed by YMCA from January 2, 2006 until April 7, 2008, as a full-time program director of child care in a branch location. On April 1, 2008, the parents of one of the children called the Iowa Department of Human Services and alleged a case of abuse, their child had allegedly been “grabbed” by the arm and “dragged.”

Ms. Batten had not been in the child care room but was at the front desk when one of her employees came to the area holding the arm of a child, asking for another manager because she intended to expel the child for unacceptable behavior. Later that day a representative from DHS came to the location to question anyone about what had happened, but did state the report of abuse had not been founded. Ms. Batten was asked if she had seen the child “dragged” to the front desk she said she did not know anything about the “situation.” This was not accurate, as she had received reports from other witnesses.

The employer conducted its own investigation and took statements from Ms. Batten and the other employee involved. In her written statement, the claimant admitted she had lied to the DHS representative because she feared her subordinate was going to be discharged over the incident. The written statement was reviewed by Branchy Manager Leo MacIntire and Human Resources Director Craig Gilmore. The claimant was discharged on April 7, 2008, for giving false statements.

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 was discharged for giving false statements to a government representative investigating a possible incident of abuse. While her motives may have been to attempt to save an employee from discharge, it was nonetheless a false statement given to a member of a regulatory agency while she was acting in her capacity as program director for the employer. It could have resulted in the employer losing its childcare certification. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and the claimant is disqualified.

DECISION:

The representative's decision of April 25, 2008, reference 01, is affirmed. Kristine Batten is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw