

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENA M TAKES

Claimant

APPEAL NO. 12A-UI-03775-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SYSTEMS UNLIMITED INC

Employer

OC: 02/19/12

Claimant: Respondent (1)

Section 96.5-2-a – Discharge
Section 96.6-2 – Burden of Proof

STATEMENT OF THE CASE:

Systems Unlimited, Inc. filed a timely appeal from an unemployment insurance decision dated March 29, 2012, reference 01, that allowed benefits to Jena M. Takes. After due notice was issued, a telephone hearing was held April 26, 2012 with Ms. Takes participating. The employer did not respond to the hearing notice.

ISSUE:

Was the claimant discharged for misconduct in connection with the employment?

FINDINGS OF FACT:

Jena M. Takes was employed by Systems Unlimited, Inc. from July 2010 until she was suspended February 17, 2012 and subsequently discharged on February 22, 2012. Ms. Takes worked with developmentally challenged individuals. Ms. Takes had concerns with the work ethics of coworker Diana Reynolds. Ms. Takes reported Ms. Reynolds' behavior to their supervisor. She did not threaten Ms. Reynolds. Ms. Takes was suspended and discharged because of allegations that she had done so.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that the claimant was discharged for misconduct in connection with the employment. It does not.

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 employer has the burden of proof. See Iowa Code section 96.6-2. The employer has presented no evidence. The claimant's testimony does not indicate misconduct. The employer has not met its burden of proof. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 29, 2012, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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