

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGIA K JONES

Claimant

APPEAL NO. 10A-UI-06900-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DELAWARE COUNTY MEMORIAL
HOSPITAL/REGIONAL MEDICAL CENTER**

Employer

**Original Claim: 04/04/10
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Georgia Jones, filed an appeal from a decision dated May 3, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 29, 2010. The claimant participated on her own behalf. The employer, Delaware County Memorial Hospital (DCMH), participated by Chief Administrative Officer Amy Mensen and Employment Services Manager Joan Funke.

ISSUE:

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

FINDINGS OF FACT:

Georgia Jones was employed by DCMH from August 18, 1997 until March 3, 2010 as a full-time housekeeper. She received a copy of the employee handbook, which includes a policy prohibiting harassment. The harassment includes “verbal, derogatory or demeaning comments,” “intimidating remarks” and “slurs” or “other offensive comments or conduct.”

On February 26, 2010, Head Housekeeper Julie Bente received a complaint from another housekeeper, Faith Steffen, alleging harassment by Ms. Jones. Ms. Bente referred the matter to human resources and on March 1, 2010, she, Chief Administrative Office Amy Mensen and Employment Services Manager Joan Funke conducted interviews of the other four housekeepers and Ms. Jones.

The claimant acknowledged to mocking Ms. Steffen’s laugh by mimicking it and making fun of it. She also admitted to asking a co-worker to go into the laundry room to find out if Ms. Steffen was eating her lunch there in violation of company policy with the intent of reporting her. Other admissions included stating the lunch room was quiet because “Faith and her big mouth” were not present, stating Ms. Steffen “needed to be fired” for what the claimant felt was a HIPPA

violation and demanding another co-worker tell who “snitched” on her. The employer had investigated the alleged HIPPA violation and found it without merit.

The employer representatives concluded the interviews during which the other housekeepers confirmed many of the complaints and the claimant's comment and actions. The employer met the afternoon of March 2 and the morning of March 3, 2010, to review the information. The decision was made to discharge the claimant and she was notified by Ms. Funke the afternoon of March 3, 2010.

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 record, including the claimant's admission, indicates Ms. Jones violated the employer's harassment policy. She mocked Ms. Steffen and made derogatory comments about her conduct, her alleged company violations, and her “big mouth.” The employer has the obligation to provide a safe and harassment-free work environment for all employees, and the claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of May 3, 2010, reference 01, is affirmed. Georgia Jones 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