

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SHERRIAN L WALTON
APT 2
2419 CENTRAL AVE
DUBUQUE IA 52001

CARE INITIATIVES
c/o JOHNSON AND ASSOCIATES
PO BOX 6007
OMAHA NE 68106-0007

Appeal Number: 05A-UI-11446-HT
OC: 10/09/05 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(23)a - Discharge

STATEMENT OF THE CASE:

The claimant, Sherrian Walton, filed an appeal from a decision dated October 31, 2005, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 28, 2005. The claimant participated on her own behalf and with a witness Sharon Riddel. The employer, Care Initiatives, participated by Administrator Barb Barker, Assistant Supervisor of Environmental Karen McClain and Housekeeper Lisa Frederick. The employer was represented by Johnson and Associates in the person of Lynn Corbeil. Exhibit One was admitted into the record.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Sherrian Walton was employed by Care Initiatives from October 14, 1999 until October 5, 2005. She was a full-time housekeeping and laundry aide.

Ms. Walton received warnings about exceeding her authority in relation to her co-workers. The employer received complaints from other housekeeping and laundry aides the claimant was checking the rooms they cleaned, putting objects such as pins under beds and around toilets to see if those areas were thoroughly cleaned, and questioning other employees about whether they had done certain tasks or used certain procedures. She received written warnings in September 2003 and August 2004 about these complaints. The employer advised her that this was a violation of company policy against "interfering" with other employees, and that her job could be in jeopardy.

On October 5, 2005, Assistant Supervisor for Environmental received complaints from two employees about the claimant continuing with her unauthorized supervision of their work. At least one housekeeper threatened to quit over the matter. The complaints characterized Ms. Walton as "bossing and checking." Given the prior warnings the decision was made to discharge the claimant and Administrator Barb Barker and Ms. McClain notified her on that day.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant had been advised her job was in jeopardy as a result of her interference with other employees. Although the claimant denied doing anything other than answering questions addressed to her by other housekeepers, her own witness testified Ms. Walton would question other staff about whether they had performed certain tasks or done it in a certain way. Ms. Riddel also admitted that pins and other foreign objects were not found under beds and around toilets after Ms. Walton was discharged. She also acknowledged complaining to the supervisor about the claimant's incessant questioning and "checking" on the work of others.

The record established the claimant did interfere with her co-workers and their assigned tasks and did not merely answer questions. She exceeded her authority, violated company policy and caused dissension among the employees to the point where some threatened to quit. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of October 31, 2005, reference 01, is affirmed. Sherrian Walton is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/tjc