

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIFFANE R DUNBAR
Claimant

APPEAL NO. 07A-UI-06537-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY ACTION OF EASTERN IOWA
Employer

**OC: 06/03/07 R: 12
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Tiffane Dunbar, filed an appeal from a decision dated June 28, 2007, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 16, 2007. The claimant participated on her own behalf. The employer, Community Action of Eastern Iowa (CAEI), did not provide a telephone number where a representative could be contacted and did not participate..

ISSUE:

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

FINDINGS OF FACT:

Tiffane Dunbar was employed by CAEI from December 11, 2001 until June 8, 2007, as a full-time secretary. During the course of her employment, she received a copy of an employee handbook. One of the provisions of that handbook is that employees are mandated to cooperate in investigations conducted by the employer. Failure to cooperate is grounds for disciplinary action up to and including discharge.

On May 11, 2007, Ms. Dunbar filed a complaint of racial discrimination with Executive Director Roger Pavey. The employer began an investigation and, periodically, Mr. Pavey would meet with the claimant to go over some of the documentation she had submitted to support her complaint. He met with her on June 5, 2007, to ask how she had come into possession of e-mails that had been sent between Mary Jo Huddleston and Maureen Stoops. She refused to answer. The employer met with her again the next day and she still refused to cooperate by revealing how she had come into possession of the e-mails sent between two other individuals.

The claimant was suspended pending further investigation and was informed in a letter dated June 8, 2007, from Mr. Pavey that she was discharged.

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 received a copy of the handbook and was responsible for its contents. She was required to cooperate in any investigation being conducted by the employer, even one which she initiated. The employer was investigating her complaints but she refused to reveal how she had come into possession of e-mails not addressed to her. This is a violation of a known company policy and constitutes conduct not in the best interests of the employer.

Ms. Dunbar maintains the real reason she was fired was because of the complaint she filed. The administrative law judge does not find this credible, because, if that were the case, she would have been fired at the time she made the complaint, a month earlier. The discharge occurred only after she refused to cooperate with the investigation she had initiated.

DECISION:

The representative's decision of June 28, 2007, reference 02, is affirmed. Tiffane Dunbar 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