

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SIPAPHAY RATSAPHANGHTONG
Claimant

APPEAL NO. 13A-UI-09973-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN SPIRIT CORPORATION
Employer

OC: 08/04/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 26, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on September 18, 2013. Claimant participated. Employer participated through Dane Weeks, Human Resources Manager and Lisa Hull, Human Resources Representative.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a mail insert operator beginning on March 7, 2013 through July 20, 2013, when she was discharged. The claimant was discharged by the employer for lying about her absences. The claimant submitted a letter to the employer allegedly from a funeral home employee who indicated that the claimant had attended her ex-mother-in-law's funeral and prayer services on May 16 and 17 in Wilbur, Nebraska. The claimant did not attend either the prayer service or any funeral service. She falsified the reason for her absence to the employer by giving to them a document she knew was false. The claimant was attempting to secure payment for bereavement leave when she submitted the letter. When the employer learned of the falsification, Mr. Weeks immediately spoke to the claimant and the claimant admitted to him that the information in the letter she submitted was false. The claimant had received the employer's handbook which required she be honest with her employer in all her dealings. The claimant was discharged not because she missed work, but because she was dishonest with the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to deal with them honestly. The evidence overwhelmingly establishes that the claimant lied to the employer about her absence and submitted what she knew to be a false document to secure bereavement pay. Her actions are sufficient substantial misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The August 26, 2013, (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs