

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GAYLA S LEVIER**

Claimant

**APPEAL NO. 12A-UCFE-00019-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US POSTAL SERVICE**

Employer

**OC: 02-05-12**

**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 11, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 7, 2012. The claimant did participate. The employer did participate through Daphne Maguire, Customer Service Supervisor and was represented by Chris Christiansen. Employer's Exhibit One was entered and received into the record.

**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: The claimant was employed as a city mail carrier full time beginning June 2, 2001 through December 31, 2011 when she was suspended and then eventually discharged on February 3, 2012 when the investigation was completed. The claimant was driving a postal vehicle on December 31 when she failed to follow safety procedures resulting in an accident and damage to a customer's property in the approximate amount of \$1,500.00. When the claimant stopped the vehicle she was driving, before exiting the vehicle she was to put the gear in park, engage the emergency brake and shut off the ignition. When the claimant exited the vehicle in the customer's driveway she did not follow the safety procedures. The vehicle rolled down the driveway then up an incline hitting the customer's garage door and pushing the vehicle in the garage 17 inches before coming to a rest. The claimant alleged that she followed all of the safety rules when exiting the vehicle on December 31 and that the vehicle was faulty. The employer sent the vehicle for testing and under duplicate conditions the vehicle did not move when the safety procedures were followed. The Administrative Law Judge is persuaded that the claimant failed to follow one or more of the safety rules resulting in the damage to the employer's vehicle and the customer's garage and vehicle. The claimant had a prior discipline for failing to follow safety rules in December 2010.

## 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 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew the safety procedures she was to follow and did not follow them resulting in damage to the employer's vehicle and the customer's garage. The Administrative Law Judge is not persuaded that the vehicle was faulty based on the employer's subsequent testing. Claimant's failure to follow the safety rules is evidence of carelessness to such a degree as to rise to the level of disqualifying job related misconduct. Benefits are denied.

**DECISION:**

The May 11, 2012 (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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs