

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH K SCHNEIDER**  
Claimant

**APPEAL NO: 11A-UI-16583-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRIENDS OF FAITH RETIREMENT HOMES  
FRIENDSHIP VILLAGE**  
Employer

**OC: 11/27/11  
Claimant: Respondent (1-R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated December 21, 2011, reference 01, that held claimant was not discharged for misconduct on November 29, 2011, and benefits are allowed. A telephone hearing was held on January 30, 2012. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment as a full-time maintenance worker on August 8, 2011, and he was dismissed from this job on November 29, 2011. He was re-hired as a third shift security officer beginning December 19, 2011 and continued to work this position until about January 22, 2012.

Although the employer did not respond to the hearing notice, it stated it is not appealing claimant's employment separation on November 29, and for the period until he was re-hired on December 19. Claimant accepted a part-time security officer position beginning December 19 that he worked until January 22, 2012. Claimant has reported his employer earnings during the entire period of his unemployment claim.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge concludes the employer dismissed claimant for no act of misconduct in connection with employment on November 29, 2011. The employer is not contesting claimant's employment separation on this date or the period he received benefits until he was re-hired on December 19. The employer is not protesting claimant's employment dismissal and separation from November 29 to his re-hire on December 19. Job disqualifying misconduct is not established for this period. Claimant is reporting his earnings from his present job.

Claimant has reported his part-time wages from his re-hire date thru his January 22, 2012 employment separation date. Since the department has not made any adjudication on this separation issue it is remanded to claims for fact-finding.

**DECISION:**

The department decision dated December 21, 2011 reference 01 is affirmed. The claimant was not discharged for misconduct on November 29, 2011. The January 22, 2012 employment separation issue is remanded. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs