

**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**

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DES MOINES IA 50314**

**Appeal Number: 05A-UI-11488-H2T  
OC: 10-02-05 R: 02  
Claimant: Respondent (2)**

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge/Misconduct  
Section 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 1, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on November 29, 2005. The claimant did participate. The employer did participate through Emily Holiday, Human Resources Coordinator, and Lisa Mitchell, Interim Employee Relations Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an adjunct instructor on an as needed basis beginning August 30, 2004 through September 6, 2005 when she was discharged. The claimant was discharged for

providing false information on her employment application concerning her educational background. John Neese, M.D., Provost, asked the claimant to provide a certified transcript of her college background so that the employer could insure that she possessed the requisite educational background to teach at the college level. The claimant was asked for the information on numerous occasions and never provided the needed information until given the deadline of September 2 by Dr. Neese. The claimant submitted a job application that indicated she had an MS in Education Leadership from Americus University. Her job application also indicated she had an ASN degree in Nursing from Sacramento City College and a BS in education leadership from Americus University.

The claimant later submitted what she alleges is an official transcript from American Public University that lists her as having a BS in Nursing from Drexel University. The claimant also allegedly received a Masters of Public Health from American Public University. The employer contacted American Public University directly and discovered that no one possessing the claimant's name, social security or student identification number has ever attended American Public University. The University informed the employer that what they had in their possession was a forgery and the claimant never attended American Public University.

The claimant has claimed and received unemployment insurance benefits after the separation from employment.

#### 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.

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).

871 IAC 24.32(6) provides:

(6) False work application. When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

The claimant was obligated to provide her employer with verification that she possessed the educational background she alleged. She has failed to provide the necessary documents and has submitted a forged document from American Public University. The claimant did not list her alleged BS in nursing when she made application for employment at the hospital, yet she did list her ASN degree in nursing. The claimant alleges she left off her BSN because the job she was applying for did not have to do with nursing. The claimant's explanation does not make sense in light of her inclusion of her alleged ASN degree in nursing on her application. A BSN is a much more difficult degree to obtain than an ASN degree and establishes a higher level of training and competence. The employer is justified in relying on the information from American Public University that the claimant has submitted a forged alleged student transcript. The claimant has not established that she possesses the educational background she alleged in her job application. The employer represents to potential students that they will receive training from qualified instructors. The claimant's failure to establish her credentials could seriously impact the employer's reputation for providing quality education in the community and impact negatively on their enrollment. The claimant's falsification of her educational background constitutes disqualifying misconduct. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The November 1, 2005, reference 02, decision is reversed. 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. The claimant is overpaid benefits in the amount of \$2,792.00.

tkh/tjc