

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANE M WINTER**  
Claimant

**APPEAL NO. 10A-UI-03307-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AKIN LTD**  
Employer

**Original Claim: 02/23/09  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 23, 2010, reference 01, that concluded she was discharged for misconduct. A telephone hearing was held on April 14, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Chris Knuth participated in the hearing on behalf of the employer with a witness, John McDermott.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as a sales clerk from January 2006 to February 2, 2010.

The claimant was discharged on February 2, 2010, after she improperly accessed the timecard of the employer's accounting clerk in late January 2010, and then spoke to other employees about her belief that the clerk was misreporting her time. In December 2009, the claimant had removed the clerk's time card from the clerk's desk to get proof that the clerk was overstating her time. The manager had looked into the claimant's accusations and had determined the clerk had done nothing wrong.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such

degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's conduct in again improperly accessing another employee's time card and making accusation to other employees about the clerk was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. It should have been clear from the situation that had taken place in December, that the claimant had no business reviewing another employee's time records. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated February 23, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw