

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BELINDA S BEAN
Claimant

APPEAL NO: 13A-UI-09683-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC
Employer

**OC: 07/21/13
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Belinda S. Bean (claimant) appealed a representative's August 13, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Lutheran Services in Iowa, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 26, 2013. The claimant participated in the hearing. Penny Ploog appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on September 10, 2012. She worked part time (24 hours per week) as a receptionist at the employer's Muscatine, Iowa office. Her last day of work was July 24, 2013. The employer discharged her on that date. The stated reason for the discharge was falsification of time records.

Prior to July 10, 2013 a number of supervisors had reported to Ploog, the site's area manager, that the claimant was not at the office during times she was recording as being at the office. Ploog made some inquiry and learned that the claimant was frequently entering only manual time adjustments on the time system, rather than directly clocking in and clocking out on the system at the times she was arriving and leaving. On July 10 Ploog counseled the claimant and instructed her that there could be no more manual entries of her time rather than directly clocking in or out, and that if there would be any need to make any manual adjustments to the

time, that she was to contact Ploog directly. On July 11 the claimant again manually entered her time. On July 15 Ploog reminded the claimant that she was not to do the manual entries.

On July 18 a human resources member was at the Muscatine office at 1:28 p.m. She reported to Ploog that the claimant was not there, even though the time system showed that the claimant had clocked back in from lunch at 1:06 p.m. The claimant then came into the office at 1:31 p.m. When Ploog questioned the claimant about this on July 24, she claimed to have clocked in at a related facility at 1:06 p.m. because she was performing work duties; however, no one at that related facility had seen the claimant there that day. At the hearing the claimant asserted that she in fact had been at an office supply store to buy supplies for the employer and had clocked in on her phone; however, the claimant in fact purchased no office supplies for the employer. Because the employer concluded that the claimant had intentionally falsified her time records, the employer discharged the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's falsification of her time records shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's August 13, 2013 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of July 24, 2013. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs