

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANIE JONES ADAMS

Claimant

APPEAL NO. 10A-UI-05375-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC

Employer

Original Claim: 07-26-09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 30, 2010, reference 05, decision that denied benefits. After due notice was issued, a hearing was held in Waterloo, Iowa, before Administrative Law Judge Julie Elder on June 1, 2010. The claimant participated in the hearing with her son/representative Brandon Adams. Lisa Roggemann, Human Resources Coordinator; Matt Archibald, Residential School Liaison; and Sarah Franklin, Employer Attorney, participated in the hearing on behalf of the employer. Employer's Exhibits One through Five were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-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 full-time teacher for Lutheran Services in Iowa from August 18, 2009 to March 8, 2010. At the time of hire, the employer asked the claimant to produce a teaching certificate, which was a requirement of her position, and she showed them one that expired July 31, 2009, and stated her new license was in the mail (Employer's Exhibits One and Three). The employer hired her with the understanding that she would bring her new license in to the employer. On approximately February 1, 2010, the employer began asking the claimant to provide her teaching license. The claimant initially said it was in the mail, then stated it was in boxes because she had recently moved, then indicated it was at her daughter's house and she would get it over the weekend and bring it in Monday and then said it was coming to her through e-mail on Friday, March 4, 2010, and she could forward it to the employer. The employer e-mailed her about the situation February 1 and 19, 2010, but the claimant did not take any action in response to the e-mails (Employer's Exhibits Four and Five). On March 3, 2010, the principal checked the Department of Education's website and learned the claimant did not have a current license. Consequently, she was told to stay home until the employer decided what to do about the situation. After reviewing the matter with the human resources director and principal and determining the claimant was untruthful and misled the employer about the status of her teaching certificate and the fact she did not have a teacher's license, the human

resources coordinator and residential school liaison notified the claimant her employment was terminated.

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.

Not only did the claimant not have a current, valid teaching certificate at the time of hire, she was not forthcoming about it when asked by the employer either at the time of hire or beginning February 1, 2010, through her termination date of March 8, 2010. Consequently, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The March 30, 2010, reference 05, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw