

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

LISA M EVANS
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AMANA IA 52203

THE UNIVERSITY OF IOWA
c/o DAVE BERGEON EMPL REL
121 R UNIV SVC BLDG
IOWA CITY IA 52242

Appeal Number: 05A-UI-02724-DWT
OC: 01/30/05 R: 03
Claimant: Appellant (1)

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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Lisa M. Evans (claimant) appealed a representative's March 7, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of The University of Iowa (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 31, 2005. The claimant participated in the hearing. Dave Bergeon and Todd Rent 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:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on January 11, 1993. She worked as a part-time staff nurse. On January 20, 2005, the employer learned the claimant was being investigated by the local police for falsifying a script pad to obtain prescription drugs. The employer talked to the claimant on January 27, 2005. The claimant did not deny she had used the employer's blank script pad to obtain a prescription drug. The employer gave the claimant the opportunity of either resigning or being discharged. On February 2, 2005, the claimant submitted her resignation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The employer initiated the employment separation by telling the claimant she would be discharged if she did not resign. The claimant would not have submitted her resignation if the employer had not decided to discharge her. For unemployment insurance purposes, the employer discharged the claimant.

Misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's actions amount to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from the claimant. The claimant committed work-connected misconduct. As of January 30, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 7, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 30, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/sc