

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CAROLE A GALLAGHER**  
Claimant

**APPEAL NO: 13A-UI-03558-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LUTHERAN SERVICES IN IOWA INC**  
Employer

**OC: 07/29/12  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated March 15, 2013, reference 04, that held she was discharged for misconduct on February 25, 2013 and benefits are denied. A telephone hearing was held on April 25, 2013. The claimant did not participate. Cassandra Murra, Program Supervisor, participated for the employer. Official notice was taken of claimant appeal documents.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant began employment on September 24, 2012, and last worked for the employer as a full-time care coordinator on February 25, 2013. One of claimant's job requirements is a valid Iowa driver's license and the employer verified it at the time of hire.

Claimant's driver's license was suspended for a period from September 20, 2012 through October 18 for non-payment of fine. She failed to notify the employer of the suspension and she transported children/clients during this period. The Iowa DOT notified claimant her license was suspended in February 2013 as a habitual violator. Claimant failed to notify the employer. A citizen complaint was made to the IDHS when the suspension was observed in a local news article. IDHS confirmed the suspension through the Iowa DOT and the employer was notified on February 25. The employer discharged claimant for transporting children/clients during a period of license suspension and her failure to notify the employer of her driving privilege issues.

Claimant failed to respond to the hearing notice.

## REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes employer has established claimant was discharged for misconduct in connection with employment on February 25, 2013.

Claimant knew at hire that having a valid driver's license was a job requirement. The DOT record shows in late September/October 2012 her license was suspended yet she transported children/clients of the employer and made no disclosure to the employer. This act is misconduct based on violation of work duty and employee dishonesty.

Claimant failed to notify the employer she received a DOT notification her license was suspended for habitual traffic violator status. While she did appeal this issue, her failure to notify the employer is a further act of employee dishonesty that constitutes job disqualifying misconduct. The news publication article about this event causes an issue of public trust with the employer as to why such an employee continues to transport children with an adverse driving record.

**DECISION:**

The department decision dated March 15, 2013, reference 04, is affirmed. The claimant was discharged for misconduct on February 25, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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