

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

LAURIE A CRAMBERG
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LOW RENT HOUSING AGENCY
ATTN DIRECTOR
2830 WINEGARD DR
BURLINGTON IA 52601

Appeal Number: 06A-UI-02548-C
OC: 01/22/06 R: 04
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 for Misconduct

STATEMENT OF THE CASE:

Laurie Cramberg filed an appeal from a representative's decision dated February 23, 2006, reference 02, which denied benefits based on her separation from Low Rent Housing Agency. After due notice was issued, a hearing was held on June 12, 2006 in Burlington, Iowa. The employer participated by Marshal Walz, Executive Director; Becky Egerton, Inspector; and Connie Fry, Public Housing Occupancy Specialist. Exhibits One and Two were admitted on the employer's behalf. Ms. Cramberg did not appear for the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Cramberg began working for Low Rent Housing

Agency on July 9, 1999 and last worked on December 21, 2005. She was employed full time as a secretary and receptionist. On December 21, two coworkers noted that Ms. Cramberg was stumbling and appeared to be unsteady on her feet. Her speech was somewhat slurred and at least one person smelled alcohol on her.

At approximately 2:00 p.m. on December 21, the employer requested that Ms. Cramberg go to the local hospital for a test to determine the level of alcohol in her system. She agreed to do so and left the workplace. Later that day, she notified the employer that she was in the hospital being treated for alcohol withdrawal and depression. The employer mailed Ms. Cramberg a notice of suspension on December 21. She acknowledged on December 27 that she had been drinking on December 21. She was formally notified of her discharge on January 11, 2006.

Ms. Cramberg had taken time off work in September and November of 2005 to address problems with alcohol consumption. She had undergone formal treatment approximately ten years ago. The fact that she appeared at work under the influence of alcohol on December 21, 2005, was the sole reason for Ms. Cramberg's discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Cramberg was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Cramberg was discharged for reporting to work under the influence of alcohol. She knew or should have known that such conduct was contrary to the employer's expectations.

Ms. Cramberg had gone through treatment for alcohol consumption in the past. The administrative law judge presumes she would not have been allowed to use alcohol while undergoing treatment. Therefore, she had demonstrated the ability to refrain from drinking. Ms. Cramberg was aware that she was again experiencing alcohol problems in the fall of 2005 because she took time off in September and November to deal with the problem. Based on her history, Ms. Cramberg knew or should have known that she might be unable to stop drinking if she started. Because she had the ability to refrain from drinking but did not, her appearance at work while under the influence of alcohol constituted misconduct in connection with her employment. Accordingly, benefits are denied.

DECISION:

The representative's decision dated February 23, 2006, reference 02, is hereby affirmed. Ms. Cramberg was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kkf