

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

SHANDA F KANGAS
PO BOX 486
JESUP IA 50648-0486

HAWKEYE TOOL & DIE INC
PO BOX 547
JESUP IA 50648-0547

Appeal Number: 06A-UI-00040-DWT
OC: 10/23/05 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:

Shanda F. Kangas (claimant) appealed a representative's December 22, 2005 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Hawkeye Tool & Die, Inc. (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 January 18, 2005. The claimant participated in the hearing. Lyle Michaels, the owner, Randy Siems, Jeremy Ott and Jared Heinke 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 employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The employer hired the claimant to work as a full-time employee on November 14, 2005. At the time of hire, the employer informed the claimant she had to successfully complete a 30-day probation.

During her employment, the claimant was late for work seven times. The employer talked to the claimant just before Thanksgiving about her attendance. At that time the claimant had been late for work four times. The employer informed the claimant that reporting to work late would not be tolerated. The claimant's work shift started work at 6:00 a.m. The claimant is a single mother and had problems getting up and taking her child to the daycare provider without her child becoming overly upset. After the employer talked to the claimant about her attendance, the claimant was late for work three more times.

Just prior to her employment separation, the employer received information that the claimant attempted to purchase illegal drugs from a co-worker. The employer did not ask the claimant about this report. Instead, the employer decided the claimant would not make a "good" employee based on her repeated failure to report to work on time. The claimant did not satisfactorily complete her probationary period.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, 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 knew she was a probationary employee. The employer warned the claimant before Thanksgiving that reporting to work late would not be tolerated. Even though the claimant is a single mother, she did nothing more to get to work on time. After the employer talked to the claimant about her attendance, she continued to report to work late. The claimant's repeated failure to report to work on time even after the employer warned her, amounts to an intentional and substantial disregard of the employer's interests. For unemployment insurance purposes, the employer discharged the claimant for work-connected misconduct. As of December 4, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's December 22, 2005 decision (reference 03) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 4, 2005. This disqualification continues until she 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.

dlw/kjw