

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARL A PETERSON**  
Claimant

**TEAM STAFFING SOLUTIONS INC**  
Employer

**APPEAL NO: 13A-UI-09828-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/21/13  
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 August 22, 2013, reference 01, that held he was discharged for misconduct on July 19, 2013, and benefits are denied. A telephone hearing was held on September 30, 2013. The claimant did not participate. Sarah Fielder, HR Generalist, participated for the employer. Employer Exhibit 1 was received as evidence.

**ISSUE:**

Whether 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 was hired on June 21, 2010, and last worked for the employer as a full time quality control employee on July 19, 2013. The employer communicated its sexual harassment policy to claimant at orientation. It provides an employee may be terminated for violation.

On July 17 claimant confronted a female employee with sexual talk about what he and his wife do at home and made passes at her. He complained to her the next day about going to HR with a report on him. Several other female employees gave statements about claimant making sexual remarks about female employees. Claimant also shared with a male employee a message about one of the female employee complainants having been a man and making sexual remarks.

The employer terminated claimant on July 19, 2013 for violation of its sexual harassment policy. Claimant failed to respond to the hearing notice and the department record (APLT) shows no call in from him.

**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 established claimant was discharged for misconduct on July 19, 2013 for violation of sexual harassment policy.

The employer received a female employee complaint that was substantiated by other female and male employees claimant had been making sexual remarks about the complainant and sharing them that is a serious violation of policy due to the repeated nature of the acts. Job disqualifying misconduct is established.

**DECISION:**

The department decision dated August 22, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on July 19, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his 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

rls/pjs