

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CASSANDRA A JOHNSON
Claimant

**OTTUMWA COMMUNITY SCHOOL
DISTRICT**
Employer

APPEAL NO. 14R-UI-07767-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/27/14
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 14, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 20, 2014. Claimant participated personally. Employer participated by Eric Sundermeyer. Claimant's Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 22, 2014. Employer discharged claimant on April 22, 2014 because of claimant's inability to perform tasks included as a part of her job description including but not limited to making deposits of monies collected from various school functions.

As school secretary claimant had assignments not just limited to the handling and depositing of monies, but also had duties watching over children who had discipline problems in class. Additionally, the school where claimant worked had a new principal this past year who had a different way of handling matters than the old principal.

Claimant had received a number of warnings about her lack of organization in the past, prior to the recent problems. Previous evaluations stated that dependability, and work habits needed improvement.

Claimant was responsible for making school deposits. Claimant neither deposited money she had direct oversight on that was left unlocked in her desk, nor did she make deposits for others and they sat in a locked file cabinet in the principal's office for months. Claimant was personally responsible for the oversight of the Party Time fundraiser. Over \$2,500.00 was collected in receipts. That money sat for months in claimant's desk, and then one day came up missing.

Claimant also was to make deposits for other fundraisers where she did not have direct oversight. Those amounts totaled over \$4,000.00 and were not made to the bank months after the money was received.

When the Party Time fundraising money was found to be missing, claimant was placed on paid administrative leave and an audit was conducted of items she was charged with controlling. Claimant was in charge of other monies collected for various school activities and programs including but not limited to instrument rental fees. Claimant had hundreds of dollars' worth of checks in various places of her desk that dated back to the beginning of the school year that had not been deposited.

When employer found out that claimant had not been making these deposits, it looked to remove claimant from her role as school secretary. During a meeting involving claimant, a union representative, a friend of claimant, and representatives of employer, claimant agreed to accept different employment, as a special education assistant. After accepting this position, claimant did not show up to work the position as agreed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. The lack of a current warning may detract from a finding of an intentional policy violation.

In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning the depositing of school monies. Claimant was warned concerning this policy.

The last incident, which brought about the discharge, constitutes misconduct because claimant's actions were willful as she knew she was to make the deposits, held the deposits where she would often see them in her desk, and did not perform an essential duty of her job for months. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated May 14, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs