

duties. Among the duties, the claimant was required to perform were cleaning windows, cleaning toilets, stocking toilet paper, stocking paper towels, sweeping floors, and maintaining the cleanliness of the office. The claimant had been repeatedly told to stock toilet paper and paper towels in the women's bathroom. The claimant agreed that she had been instructed on how to accomplish all of her job duties and that she knew how to properly perform all the duties expected of her. The claimant had previously demonstrated an ability to perform all the job functions in a manner that met the employer's expectations. On July 6 the claimant was again warned about her failure to keep the restrooms supplied with toilet paper. On August 1 the employer checked the restrooms and again discovered that they had not been properly stocked with toilet paper. The claimant was discharged for failing to perform the duties required of her. The claimant is not currently receiving any weekly workers' compensation benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant was expected to perform her janitorial duties which included keeping the restrooms adequately stocked with paper towels and toilet paper. The employer has demonstrated that the claimant had been repeatedly told to overstock the bathroom with toilet paper and that the claimant knew she was to overstock the bathrooms with toilet paper. Employees had complained about the lack of toilet paper in the bathrooms. The claimant did not properly stock the restroom on August 1 even though she knew how to and knew she should. The claimant deliberately and intentionally acted in a manner she knew to be contrary to the employer's interests or standards. Misconduct has been established and unemployment insurance benefits are denied.

DECISION:

The August 29, 2005, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

tkh/kjf