

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

JO ANNA L KELLY
180 SOUTHVIEW DR #2
MARION IA 52302

ROCKWELL COLLINS INC
ATTN EMPLEE EFFECT MS126-205
400 COLLINS RD NE
CEDAR RAPIDS IA 52498

Appeal Number: 05A-UI-08315-AT
OC: 07-10-05 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 for Misconduct

STATEMENT OF THE CASE:

Jo Anna L. Kelly filed a timely appeal from an unemployment insurance decision dated August 5, 2005, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held October 11, 2005, by administrative law judge Julie Elder. Shortly after the hearing, Judge Elder became ill and has been unable to prepare a decision. This decision is being issued based upon the record made before Judge Elder.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jo Anna L. Kelly was employed by Rockwell Collins,

Inc. from May 15, 2000 until she was discharged July 11, 2005. She last worked as an engineering project assistant. On January 10, May 14, and May 27, 2005 Ms. Kelly received warnings for failing to follow instructions in the recording of her time. The employer required not only that Ms. Kelly accurately reflect the number of hours worked. She was also required to accurately attribute the hours to the specific projects on which she worked.

After these warnings, Ms. Kelly reported having worked from 9:30 a.m. until 6:00 p.m. on June 29, 2005. Investigation established, however, that Ms. Kelly did not report to work until after noon. On the evening of June 30, 2005, Ms. Kelly left a voice message with her supervisor that she would be late reporting to work on July 1. Ms. Kelly then did not report to work at all and did not contact the employer further. When questioned on July 5, 2005, when she returned to work, Ms. Kelly declined to provide the employer with the reason that she was absent. Also on July 5, 2005, Ms. Kelly attempted to "correct" her time report for June 30, 2005. In so doing, she reported eight hours of work and two hours of vacation for an eight-hour day. After reviewing all of these matters, the employer discharged Ms. Kelly on July 11, 2005.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her work. It does.

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 blamed her "errors" on the computer system. The administrative law judge discounts this testimony. As an engineering project assistant at a company with a long history in the electronics field, the administrative law judge finds it implausible both that the employer's computer system would be inadequate or that a five year employee such as Ms. Kelly would not understand how to use it. The administrative law judge concludes from the evidence in the record that the claimant repeatedly misrepresented her actual time worked and in addition was absent without excuse on July 1, 2005. The sum total of the evidence is that the claimant was discharged for misconduct in connection with her employment. Benefits are withheld.

DECISION:

The unemployment insurance decision dated August 5, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

kkf/kjw