

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMY PETERSON**  
Claimant

**CARLETON LIFE SUPPORT SYSTEMS INC**  
Employer

**APPEAL 15A-UI-10507-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/23/15**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 14, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination she was discharged for violating a known company rule. The parties were properly notified about the hearing. A telephone hearing was held on October 8, 2015. Claimant Amy Peterson participated on her own behalf. Employer Carleton Life Support System, Inc. was participated through Engineering Services Manager Nicole Freeze and was represented by Attorney Jeff Wright.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a senior technical writer beginning July 11, 1995, and was separated from employment on August 26, 2015, when she was discharged. The claimant reported to Sandy Myers.

In August 2015, Myers, who was typically responsible for approving her team's payroll, was out of the office. Engineering Services Manager Nicole Freeze assumed that job duty in her absence. The claimant recorded on her timesheet that she had worked five and a half hours on Saturday, August 22, 2015. Freeze had worked the same day and did not remember seeing the claimant at work. When Freeze confronted her with the discrepancy, the claimant stated she did not work Saturday but had instead worked Sunday. Freeze contacted the security and IT departments to determine when the claimant used her badge and logged into her computer. Freeze determined the claimant had gone to work for five to ten minutes on Sunday to submit her timesheet, but had not worked at all on Saturday. Freeze then reviewed the same information for the month of August and determined false information had been reported on six other occasions in August and the majority of the false hours were claimed on Saturdays. The claimant was terminated for falsifying her timesheets.

## 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. Benefits are denied.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

The claimant argued she did not knowingly falsify her timesheets as she was experiencing hallucinations due to her medication and believed she had worked on that Saturday. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of

witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge does not find the claimant's argument persuasive. When asked how else the alleged side effect of her medication affected her, the claimant explained she would falsely believe she had fed the dog or done the dishes. She did not provide any other ways in which this side effect affected her performance at work. Additionally, the bulk of the falsely reported time was on Saturday, when the majority of the employees were not at work. There was no explanation provided as to why her medications would affect her mostly on Saturdays.

Falsifying timesheets is theft. Theft from an employer is generally disqualifying misconduct. *Ringland Johnson, Inc. v. Hunecke*, 585 N.W.2d 269, 272 (Iowa 1998). In *Ringland*, the Court found a single attempted theft to be misconduct as a matter of law. In this case, the claimant deliberately disregarded the employer's interest and knowingly violated a company policy. The claimant engaged in disqualifying misconduct even without previous warning. Benefits are denied.

**DECISION:**

The September 14, 2015, (reference 01) unemployment insurance 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.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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