

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

BRENDA K OLDENKAMP
430 E LINCOLN HWY #11
MISSOURI VALLEY IA 51555

LONGVIEW HOME INC
1010 LONGVIEW RD
MISSOURI VALLEY IA 51555-1299

Appeal Number: 05A-UI-06908-LT
OC: 06-12-05 R: 01
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)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 28, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 22, 2005. Claimant did participate with Delores Swanson. Employer did participate through Diane Nuzum.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time laundry and housekeeping worker through June 10, 2005, when she was discharged. On June 8 a coworker, Amanda Evers, overheard claimant tell the Swanson's (residents) grandson over the phone she was a nurse in order to get the Swanson's daughter on the phone and tell her not to let Angela visit the Swanson because she upsets them. Claimant admitted she said she was "messaging" with the person on the phone.

On May 19, 2005, claimant told Delores and Harold Swanson that someone else took their laundry home and later admitted she was not telling the truth. She told the Swansons about the laundry but did not report it through the management chain. On May 5, 2005, claimant left work before getting her work done because she had been talking too much. Claimant recalled that she had to go to the hospital and get her daughter who was in an accident but did not leave a note or advise anyone until later confronted.

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).

Claimant's representation to residents' relative that she was a nurse was deceitful and was misconduct. Benefits are denied.

DECISION:

The June 28, 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.

dml/kjw