

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CONNIE R SORBE

Claimant

APPEAL NO. 12A-UI-10256-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL

Employer

OC: 02-26-12

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 16, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 19, 2012. The claimant did participate. The employer did participate through (representative) Kayla Neuhalphen, Human Resources Representative and Danielle Shaughnessy, Employee Services Representative. Employer's Exhibit One was entered and received into the record.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at Northwest Bank as a clerk/general office worker full time beginning May 14, 2012 through July 16, 2012 when she was discharged. The claimant was called by Danielle Shaughnessy, an employee of Aventure, and told that her assignment at Northwest Bank was ending. The claimant was upset and asked why she was being let go. Ms. Shaughnessy provided the information she had been given by her customer, Northwest Bank and then specifically instructed the claimant that she was not to contact anyone at Northwest Bank directly. After being told not to contact the client directly, the claimant did so anyway and spoke with her former supervisor Sarah Frerichs. The customer complained to Aventure about the claimant contacting them. The claimant had been given a copy of the employer's policies which specifically put her on notice that she was not to contact the company directly without prior approval.

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 § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant was specifically told not to contact anyone at Northwest Bank but did so anyway. The employer has good reason for preventing their employees from contacting their customers: it could cost them the customer's business. Claimant's failure to follow the handbook rules and the specific instruction given to her by Ms. Shaughnessy is misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The August 16, 2012 (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css