

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAMONA J DEVAN
Claimant

APPEAL NO. 08A-UI-11002-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALPHA CHI OMEGA DELTA NU CHAPTER
Employer

**OC: 05/18/08 R: 02
Claimant: Respondent (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Alpha Chi Omega Delta Nu Chapter (employer) appealed a representative's November 14, 2008 decision (reference 01) that concluded Ramona J. Devan (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 9, 2008. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Carol Norris, the house director, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer for five years as a part-time housekeeper. Norris became the house director in August 2008.

After Norris started working as the house director, the claimant did not call or report to work for two weeks in August. Norris gave the claimant a verbal warning for failing to notify the employer these days on August 25. After August 25 the employer did not have any problem with the claimant notifying the employer when she was unable to work.

On September 9, Norris went over the claimant's contract with her because the claimant was not completing all her job duties and she was not cleaning satisfactorily. When Norris reviewed the claimant's personnel file, she noticed the claimant's previous supervisor had similar problems with the claimant. The claimant received warnings from her previous supervisor about failing to perform her job tasks. Norris finally came to the conclusion that the claimant did the work she wanted to do, the way she wanted to do it regardless of what Norris told her.

The female students at the house complained about the way the claimant did not clean the showers, the fact the claimant did not empty the trash every day and the claimant's failure to take care of certain supplies. On September 26, Norris again talked to the claimant about the way she had not cleaned the shower. Norris offered to buy various cleaning supplies to get the mold and stain off the shower tiles. The claimant responded that the shower was as clean as it was going to get and she did not need any other cleaning supplies.

In addition to Norris' observations about the claimant's failure to do all her assigned jobs, the students living in the house also complained how the claimant acted inappropriately when male students were at the house.

In early October the employer's corporate office told Norris to discharge the claimant because there were too many complaints about the claimant and she no longer fulfilled the terms of her contract. On October 10, Norris informed the claimant she was discharged for the above reasons.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The evidence presented during the hearing establishes the claimant failed to perform her assigned job tasks. Even when the employer offered to get supplies to get the showers clean, the claimant declined any other cleaning supplies and told the employer the showers were as clean as they were going to get. After the employer hired a new housekeeper, the mold and stains were removed by the claimant's replacement. The claimant's failure to follow the contractual terms of her employment by completing certain jobs on a daily basis and her failure to clean showers and remove the mold amount in this case to an intentional and substantial disregard to follow the employer's instructions. The employer discharged the claimant for reasons constituting work-connected misconduct. As of October 19, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 14, 2008 decision (reference 01) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 19, 2008. This

disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css