

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON A FERREL**  
Claimant

**APPEAL NO: 09A-UI-10616-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HILLCREST FAMILY SERVICES**  
Employer

**OC: 06/14/09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Jason A. Ferrel (claimant) appealed a representative's July 20, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Hillcrest Family Services (employer). After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on August 11, 2009. The claimant participated in the hearing. Julie Heiderscheit appeared on the employer's behalf and presented testimony from one other witness, Shannon Hagensten. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on June 3, 2007. He worked full time as a mental health counselor at one of the employer's group homes providing services for adults with mental illness. His last day of work was June 5, 2009. The employer discharged him on June 9, 2009. The stated reason for the discharge was misuse of the company credit card and misappropriation of funds.

On June 5 the claimant went to the grocery store with some of the home's residents to get some groceries for the home. While there, he picked up two frozen pizzas and three pounds of candy for himself. However, he failed to pay for his personal purchases himself, but they were included on the bill he charged on the employer's account. He asserted that he had intended to reimburse the employer as soon as possible, but he said nothing to the replacement worker who relieved him from duty that night and saw him taking the food home with him. Nor did he leave a note or make any other attempt at prompt communication.

The coworker reviewed the cash register receipt and realized the claimant had taken home food paid for by the employer, and reported it to the employer. The claimant called in an absence

from work on June 8, but again did not mention that he had made any mistake. When he arrived for work on June 9, he was brought into the office and confronted, at which time he acknowledged using the credit card; only then did he tell the employer that he had intended on reimbursing the employer. Because of this unauthorized personal use of the credit card, the employer discharged the claimant.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's use of the credit card to purchase his personal items, particularly without taking immediate remedial action, shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

#### **DECISION:**

The representative's July 20, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of June 9, 2009. This disqualification continues until the

claimant has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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