

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**LISA KINKADE**

Claimant

**WILLIAM PENN UNIVERSITY**

Employer

**APPEAL NO. 14A-UI-02174-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/26/14**

**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Lisa Kinkade (claimant) appealed an unemployment insurance decision dated February 18, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she was discharged from William Penn University (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 19, 2014. The claimant participated in the hearing. The employer participated through Louise Blaine, Human Resources Director and Becky Flesner, Housekeeping Coordinator. Employer's Exhibits One through Three and Claimant's Exhibits A, B, and C were admitted into evidence.

**ISSUE:**

The issue is whether the claimant was discharged for work-related misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time environmental technician housekeeper from June 27, 2011, through January 22, 2014, when she was discharged for lying about mopping and sweeping the art room floor in the McGrew building. She cleaned in the McGrew building earlier that morning but when supervisor Becky Flesner called her back to the building to ask whether she mopped and swept the art room floor, the claimant immediately responded yes but shortly thereafter admitted that she had not done so. The claimant apologized and said she was afraid of her supervisor. On November 8, 2013, she complained to human resources about her supervisor's harassment, intimidation and coercion. No formal disciplinary warnings had been issued to her during her employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. 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. 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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on January 29, 2014, because she falsely claimed to her supervisor that she had swept and mopped the art room floor in the McGrew building. She promptly admitted she had not done so and apologized for her false statement. The claimant's explanation that she was afraid of her supervisor is substantiated by her earlier documented claims of harassment, intimidation and coercion. Her explanation is reasonable and although her false statement was inappropriate, it appeared to be a single lapse of judgment based on intense emotions and not intentional wrongdoing. Work-connected misconduct as defined by the unemployment insurance law has not been established in this case and benefits are allowed.

**DECISION:**

The unemployment insurance decision dated February 18, 2014, (reference 01), is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs