

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANNON VOGT
653 BLUFF ST
DUBUQUE IA 52001-4603**

APPEAL NO: 09A-UI-13513-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HJD SUB TENANT LLC
c/o PLAXALL INC
5-46 – 48TH AVE
LONG ISLAND CITY NY 11101-5215**

APPEAL RIGHTS:

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:

***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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**JOSEPH FARRENTINO
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DUBUQUE IA 52001-6825**

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON VOGT
Claimant

APPEAL NO: 09A-UI-13513-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

HJD SUB TENANT LLC
Employer

OC: 08-16-09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 9, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 19, 2010. The claimant participated in the hearing with Attorney Joseph Farrentino. Mark Czeshinski, Director of Sales and Becky Rogers, Acting General Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One, Two and Three and Claimant's Exhibits A, B and C were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time wedding consultant for HJD Sub Tenant from October 3, 2006 to August 18, 2009. She was discharged after a series of complaints from clients in the wedding area. On June 12, 2009, she received a written warning after the employer received several complaints about the claimant's lack of follow through, attention to detail, and lack of professionalism regarding four wedding parties married in April, May and June 2009 (Employer's Exhibit One). The warning noted the claimant previously received a verbal warning regarding communication over the past three months and showed little change (Employer's Exhibit One). The warning also stated the claimant needed to show immediate improvement in the above areas (Employer's Exhibit One). The employer also indicated that if one more complaint was received by a customer the claimant would face immediate termination of employment (Employer's Exhibit One). The claimant made some comments on the warning but did sign it (Employer's Exhibit One). The employer received an e-mail from a customer documenting that while the claimant was very pleasant to work with, she was very difficult to contact (Employer's Exhibit Three). The couple paid their \$1,000.00 deposit in June 2009 but did not receive the contract that was to follow until speaking to the Director of Sales in August 2009 (Employer's Exhibit Three). Additionally, the customer was very concerned about booking a block of rooms for his guests and sent the claimant an e-mail July 21, 2009, asking

about the block of rooms and other issues (Employer's Exhibit Three). The claimant responded with an e-mail July 24, 2009, stating she would send a contract for a block of rooms but the customer did not receive the contract (Employer's Exhibit Three). He sent another e-mail August 10, 2009, stating his guests were asking him about rooms and he did not have any information (Employer's Exhibit Three). He reminded her this was the second time he asked her this question, still did not have a contract for a room block and asked her to contact him ASAP (Employer's Exhibit Three). The claimant did not reply to his e-mail or even acknowledge the e-mail was received (Employer's Exhibit Three). Later that week the mother of the bride called and reserved four rooms without the block information and the service desk employee told her that the rooms needed to be booked soon because there was another event at the same time and they were already reserving rooms which were "filling up fast" (Employer's Exhibit Three). That comment made the bride and groom "very nervous" because they were expecting many out of town guests and the groom could not understand why this had become an issue (Employer's Exhibit Three). He called the claimant's voice mail and left an urgent message asking her to return his call ASAP (Employer's Exhibit Three). The Director of Sales called him the next day and helped him with what "should have been a very simple, routine request" (Employer's Exhibit Three). The customer stated this experience left him "very anxious about future arrangements and planning" and the employer could have theoretically lost that customer (Employer's Exhibit Three). The employer terminated the claimant's employment effective August 18, 2009, for receiving her third write up and failing to return telephone calls to customers per company standards, even when the voice mails were marked urgent and did not speak to the customer until management became involved and brought it to her attention after spending 30 minutes on the phone taking care of the customer's needs (Employer's Exhibit Two).

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.

While the claimant's job was hectic, time consuming and time sensitive, she was working with customers on what is probably the biggest day in their lives to that point and consequently had a great responsibility to answer their questions and make the arrangements needed in a timely manner. She was expected to do this during the busiest of seasons as well as the slowest but was showing a failure to manage her job during the spring and summer of 2009 and as a result the employer received numerous complaints about her performance in handling customer's wedding arrangements. She received a verbal and written warning about her failure to perform her job by making the required arrangements for the weddings, paying attention to and following through with details and professionalism regarding the complaining wedding parties. The claimant had performed her job for nearly three years and knew what was required to satisfy the customers but either became overwhelmed or did not pursue the arrangements with the vigor required. Consequently, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The September 9, 2009, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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