

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 04A-UI-07312-DWT  
OC 02/01/04 R 01  
Claimant: Appellant (2)**

**DAWN D RASMUSSEN  
207 – 36<sup>TH</sup> AVE W  
APT A  
SPENCER IA 51301**

**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 the **Employment Appeal Board, 4<sup>th</sup> 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.

**HOPE HAVEN INC  
1800 – 19<sup>TH</sup> ST  
ROCK VALLEY IA 51247**

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are 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.

**RHODA TENUTA  
IOWA LEGAL AID  
520 NEBRASKA STE 337  
SIOUX CITY IA 51101**

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Dawn D. Rasmussen (claimant) appealed a representative's June 22, 2004 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits because Hope Haven, Inc. (employer) discharged her for reasons constituting work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2004. The claimant participated in the hearing with her attorney, Rhoda Tenuta. Lee Ann Blau, the residential manager, appeared on the employer's behalf. 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:

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

FINDINGS OF FACT:

The claimant started working for the employer on January 30, 2004. The claimant provided services to the employer's consumers. Since January 2004, the claimant worked on-call.

On June 3, 2004, the claimant had a scheduled appointment with a family at 7:15 a.m. A member of this family called the employer at 7:30 a.m. because the claimant had not shown up for the appointment. Although the claimant understood the employer required her to contact a manager when she was unable to keep a scheduled appointment, the claimant was unable to contact the employer until 3:00 p.m. on June 3. Either the night of June 2 or sometime before 7:00 a.m. on June 3, the claimant was unexpectedly hospitalized. The claimant did not have access to a phone until 3:00 p.m. when she called Blau.

On June 7, the employer received a call from member of the family indicated above and asked for another person to work with the family. This family did not want to work with the claimant. The employer also received a call from another family, family R, on June 7. Family R indicated they wanted to end all services with the employer because the claimant told them about lawsuits she was involved with and that the claimant threatened to report some family members to DHS.

The employer did not talk to the claimant about family R's complaint. While the claimant admits she told family R she might have to make a report to DHS about them, she did not tell them any personal information. Although the claimant's job was not in jeopardy prior to June 7, the employer discharged the claimant based on the complaints of two families or consumer families.

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.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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 employer established compelling business reasons for discharging the claimant. The complaints family R made are considered hearsay and unsupported. The claimant's testimony was credible and must be given more weight than the employer's reliance on hearsay information. Therefore, a preponderance of the evidence does not establish that the claimant discussed personal topics with family R. Also, the claimant talked to a manager before she told family R she might to make a report to DHS about them.

The claimant's failure to report to the June 3 7:15 a.m. meeting was beyond the claimant's control because of a medical emergency. The claimant contacted the employer as soon as she had access to a phone. The facts do not establish that the claimant committed work-connected misconduct. Therefore, as of June 6, 2004, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements.

**DECISION:**

The representative's June 22, 2004 decision (reference 04) is reversed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected

misconduct. As of June 6, 2004, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements.

dlw/