

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBBIE L CANADA
Claimant

APPEAL NO. 13A-UI-13922-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF DES MOINES PAYROLL DEPT - B
Employer

OC: 12/01/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 19, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on January 13, 2014. Claimant participated. Employer did participate through Doug Romig, Housing Services Supervisor and was represented by Carol Mosser, Attorney at Law. Employer's Exhibits A through H were entered and received into the record.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a family development specialist beginning on October 12, 2009 through December 3, 2013 when she was discharged. The claimant had been trained on how to properly complete a LIHEAP (energy assistance) application for an applicant. The employer discovered that the claimant had whited out a portion of the applicant's bank statement that disclosed he had income other than a social security check. The employer questioned the claimant about the bank statement and the claimant was not honest with her supervisor when she told him that the applicant had marked out the income on the bank statement. The employer discovered the claimant's dishonesty when they found the original of the bank statement on her desk. The employer placed the claimant on suspension and went through two disciplinary hearings to obtain her version of events.

By whiting out the applicant's income the claimant was making him eligible for assistance that he should not have been eligible to receive. The claimant clearly knew or should have known that the bank statement contained wages as the income was marked as "payroll." The claimant was obligated to be honest in her dealings with her employer and to properly follow the guidelines for awarding assistance to applicants. The claimant's failure to follow the guidelines in reviewing and handling the application jeopardized the funding and the integrity of the program. The claimant had received the employer's code of conduct and had demonstrated ability in the past to properly follow the employer's policies in dealing with the applications.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew how to properly evaluate and process application for LIHEAP as she had done so many times previously. The evidence does establish that she was the person who whited out the applicant's payroll information, something she knew she should not do. Her actions do amount to substantial misconduct and are sufficient reason to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The December 19, 2013, (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs