

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAYLA M BLAKESLEE

Claimant

APPEAL NO. 12A-UI-01931-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPLE TREE PRESCHOOL & LEARNING

Employer

OC: 01/08/12

Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Kayla Blakeslee, filed an appeal from a decision dated February 16, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 14, 2012. The claimant participated on her own behalf. The employer, Apple Tree, participated by Concept Manager Jocelyn Flattery.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Kayla Blakeslee was employed by Apple Tree from July 17, 2006 until January 11, 2012 as a full-time preschool teacher. At the time of hire she was given orientation and training as to what was expected of her in the performance of her regular duties. One critical area is that children are not to be left unattended at any time and this is grounds for discharge if it occurs.

On January 11, 2012, the claimant took children from her class on a field trip. She is to count the children when the van leaves the school and when it returns. The training requires the teachers to walk through the van after the trip, checking on and under seats for any child which might be sleeping. A count should be done as the children get off the van or while they are standing by the van immediately after disembarking. On that day Ms. Blakeslee did not do either of these but brought the children into the building for lunch. By the time they were all seated at the lunch table another child sat at the table so it appeared all the children from the bus were in the building.

Nearly two hours later a visitor to the school saw a child beating on the window of the van because he had been left there after the field trip. The employer questioned the claimant about when she had done the count and sent her home for the rest of the day. The decision was made to discharge her for failing to perform her job duties as required and maintain the safety of the children.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The incident of a child being left unattended on the van for nearly two hours shows exactly why the employer has specific regulations in place as to the counting of the children and when and where. Ms. Blakeslee ignored the rules and did not examine the van after the trip or while the children were by the bus. The employer has the obligation to provide a safe environment for all the children in its care. The claimant's deliberate failure to follow rules and policies interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of February 16, 2012, reference 01, is affirmed. Kayla Blakeslee is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs