

**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**

**PAMELA LANDHEER
214 E ELM ST
ALGONA IA 50511**

**TITONKA CARE CENTER
312 1ST AVE NW
TITONKA IA 50480**

**Appeal Number: 05A-UI-06934-H2T
OC: 06-05-05 R: 02
Claimant: Appellant (1)**

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, 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.

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 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 27, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 25, 2005. The claimant did participate. The employer did participate through Janet Anderson, Administrator.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a CNA part time beginning May 2, 2002 through June 6, 2005, when she was discharged. The claimant was involved in an incident on June 2, 2005 where a resident she was caring for was so unhappy with her treatment that she asked for her son to be called so he could remove her from the facility immediately. This incident happened during the

evening shift the claimant normally worked. The claimant's direct supervisor, the charge nurse, tried to question the claimant about what happened with the resident who was so upset. The claimant refused to speak to her Supervisor because she was upset about something her supervisor had done the day previously.

The administrator asked the claimant to report to the worksite on June 6 so that she could discuss some events with her and possibly discipline the claimant. The claimant was only being asked to report to her normal place of work. The claimant refused to come in and talk with the administrator, allegedly because she did not have gas in her car to get her there. The claimant's place of work is approximately twenty-two miles from her home. When the claimant refused to meet with the administrator to discuss the resident's complaints, the claimant was discharged for her failure to communicate with the employer.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has a right to expect employees to communicate with them. Under these circumstances the employer had an obligation to investigate a resident's complaint. It is reasonable to assume that the claimant would speak with her direct supervisor, particularly to investigate a resident's complaint about her behavior. The claimant has an obligation to cooperate with her employer to investigate complaints. Her refusal to meet with the administrator is not justified. The claimant's refusal to talk to her direct supervisor and to meet with the administrator is misconduct sufficient to disqualify her from receiving unemployment insurance benefits. Benefits are denied.

DECISION:

The June 27, 2005, 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.

tkh/kjw