

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**STACY STEARMAN**

Claimant

**APPEAL NO. 14A-UI-08250-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEASTON CAMP KENNELS**

Employer

**OC: 07/20/14**

**Claimant: Respondent (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Beaston Camp Kennels (employer) appealed an unemployment insurance decision dated August 5, 2014, (reference 01), which held that Stacy Stearman (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2014. The claimant participated in the hearing. The employer participated through Owner Kelly Beaston. Employer's Exhibits One through Five were admitted into evidence.

**ISSUES:**

The issues are whether the claimant is disqualified for benefits, whether she was overpaid unemployment insurance benefits, whether she is responsible for repaying the overpayment and whether the employer's account is subject to charge.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time kennel worker from May 31, 2013, through July 18, 2014, when she was discharged for repeated performance issues. Her father passed away on January 7, 2014, and she was off work until January 15, 2014. A written warning was issued on January 20, 2014, for failure to follow direction, lack of attention to detail, attitude toward other employees, poor decision making and inappropriate behavior in front of customers. The claimant's mother passed away on January 27, 2014, and she was off work until January 29, 2014. A second written warning and a five-day suspension was issued to her on January 29, 2014, for poor care of the animals and poor decision making.

On July 15, 2014, the claimant was unaware that a dog for which she was providing care was bitten on the face. She was supposed to be closely monitoring the dogs. On July 17, 2014, the dog the claimant had been watching had its collar almost chewed in two pieces. The claimant denied that she had intentionally neglected the dogs and questioned the bite on the dog's face.

The claimant filed a claim for unemployment insurance benefits effective July 20, 2014, and has received benefits after the separation from employment. Owner Kelly Beaston personally participated in the fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on July 18, 2014 for poor work performance. She received disciplinary warnings but the employer continued to see problems. When a claimant fails to improve even after disciplinary action, the claimant's ability to perform the job in a satisfactory manner cannot be established. Consequently, there is no wrongful intent.

**DECISION:**

The unemployment insurance decision dated August 5, 2014, (reference 01), is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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