

**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**

**KASANDRA A PETERSEN  
315 E 5<sup>TH</sup> ST  
HUXLEY IA 50124**

**AMES PUBLIC LIBRARY FOUNDATION  
515 DOUGLAS  
AMES IA 50010-6215**

**Appeal Number: 05A-UI-07868-CT  
OC: 06/26/05 R: 02  
Claimant: Respondent (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, 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.

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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Ames Public Library Foundation (APLF) filed an appeal from a representative's decision dated July 22, 2005, reference 04, which held that no disqualification would be imposed regarding Kasandra Petersen's separation from employment. After due notice was issued, a hearing was held by telephone on August 18, 2005. Ms. Petersen participated personally and Exhibits A and B were admitted on her behalf. The employer participated by Lynne Carey, Interim Co-Director; Jill Anderson, Principle Clerk; Charles Jons, Director; and Sheila Lundt, Ex Officio Board Member. Exhibits One and Two were admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Petersen began working for APLF on May 2, 2005 as a part-time development director. On June 10, she sent an e-mail to her supervisor, Gina Millsap, advising of a legal problem involving her and her former employer, the City of Huxley. An article had appeared in the local newspaper indicating that the City of Huxley had charged Ms. Petersen with theft of \$53.00 in city funds. Ms. Petersen offered to share with her employer any details they felt necessary. In the e-mail, Ms. Petersen indicated she would quit if the employer felt the matter jeopardized her position with APLF. Ms. Millsap responded to the e-mail by indicating that Ms. Petersen had her support and that she would not recommend her resignation if there was assurance from her that the allegations had no basis.

Ms. Petersen also spoke to Janet Stephenson, APLF's board president. Ms. Petersen asked Ms. Stephenson if she should resign and was told not to. A board meeting was held on June 21. At that point, Ms. Petersen was under the impression from Ms. Millsap and Ms. Stephenson that her resignation would not be requested. The matter was presented to the board and Ms. Stephenson asked Ms. Petersen to share with the board the fact that she had offered to resign. The board went into a closed session and, afterwards Ms. Petersen was told that her resignation was accepted.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Petersen was separated from employment for any disqualifying reason. A threshold question is whether the separation was a quit or a discharge. It is true that she offered to resign. However, her offer was conditional. Ms. Petersen indicated to both Ms. Millsap and Ms. Stephenson that she did not want to leave her employment with APLF. She offered to resign if the employer wanted her to. The APLF board never indicated that they did not want Ms. Petersen to resign. It must be concluded, therefore, that the employer did want her to resign. Based on the foregoing, the administrative law judge concludes that the resignation was requested. Moreover, the employer equivocated when asked if continued work would have been available for Ms. Petersen if there had been no resignation. For the reasons stated herein, the administrative law judge concludes that the separation was initiated by the employer and is considered a discharge.

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). A disqualification from benefits is imposed only if the conduct that caused the discharge was in connection with the individual's employment. The conduct that caused Ms. Petersen's discharge was not in connection with her employment with APLF but with a former employer. The administrative law judge appreciates that the press attention given the matter may have caused some concern for APLF's image. However, Ms. Petersen had no control over what appeared in the newspaper. Ms. Petersen did not engage in any misconduct while in the employ of APLF. Because there was no misconduct in connection with her employment, no disqualification is imposed.

DECISION:

The representative's decision dated July 22, 2005, reference 04, is hereby affirmed. Ms. Petersen was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kjw