

**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**

**STACIE M REID
1300 W JACKSON #2
FAIRFIELD IA 52556**

**ENERIC PETROLEUM CORPORATION
56 E BURLINGTON AVE
FAIRFIELD IA 52556**

**Appeal Number: 06A-UI-02412-C
OC: 12/25/05 R: 03
Claimant: Appellant (2)**

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 for Misconduct

STATEMENT OF THE CASE:

Stacie Reid filed an appeal from a representative's decision dated February 16, 2006, reference 04, which denied benefits based on her separation from Eneric Petroleum Corporation (Eneric). After due notice was issued, a hearing was held on June 13, 2006 in Ottumwa, Iowa. Ms. Reid participated personally. The employer opted not to participate in the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Reid was employed by Eneric from January 9

until January 27, 2006. She worked full-time in data entry. She was discharged because she failed to list all of her past jobs on her application and résumé.

Ms. Reid initially completed an application for employment with Emeric on May 27, 2004. The application only asked her to list her "employment experience." She submitted a résumé to the employer in December of 2005. Ms. Reid did not indicate on either her application or her resume that she had worked for Central Valley Bank in Fairfield, Iowa. She did not list those jobs that she did not consider relevant to the position she was applying for. Nor did she list those jobs that lasted less than six months. Ms. Reid worked part-time at the bank for approximately five months while she was in school in 1997. Because of her failure to include employment with the bank on either her application or her résumé, Ms. Reid was discharged on January 27, 2006. The above matter was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Reid was separated from employment for any disqualifying reason. 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). Ms. Reid was discharged because she failed to list a past employer on her application and résumé submitted to Emeric. The falsification of an employment application constitutes disqualifying misconduct if the falsification did or could endanger the health, safety or morals of the applicant or others, or could result in exposing the employer to legal liabilities, or place the employer in jeopardy. 871 IAC 24.32(6). The employer indicated in its protest to Ms. Reid's claim that she would not have been hired had she disclosed her employment with the bank. The question of whether she would have been hired is immaterial to the real question, which is whether the falsification satisfies the legal requirements to constitute disqualifying misconduct.

The employer had the burden of proving that Ms. Reid should be disqualified from benefits based on misconduct. The employer has failed to establish that the failure to list all of her past jobs adversely impacted or had the potential to adversely impact the employer. There has been no showing that the omission jeopardized the health or safety of others or that it subjected the employer to legal liability. For the above reasons, the administrative law judge concludes that the employer has failed to satisfy its burden of proof. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated February 16, 2006, reference 04, is hereby reversed. Ms. Reid was discharged, but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/ cs