

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAYLEE A CLOKE

Claimant

GOOD SAMARITAN SOCIETY INC

Employer

APPEAL NO. 14A-UI-01310-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/14

Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated January 28, 2014, reference 01, that held he was discharged for excessive unexcused absenteeism on January 6, 2014, and benefits are denied. A hearing was held on February 26, 2014. The claimant participated. Kyla Yates, HR Director, participated for the employer.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant was hired on August 10, 2011 and last worked as a full-time C.N.A. on January 6, 2014. The claimant received the employer attendance policy that provides two incidents of no-call no-show are grounds for termination.

Claimant was a no-call no-show to work for a scheduled shift on December 7, 2013. She was a no-call no-show for work on January 5, 2014. A co-worker stopped by to pick-up claimant on December 7, knocked on the door, and claimant did not respond. The employer has a phone number to contact it to report an absence. The employer has someone answer any call. The employer did not receive a call from claimant for January 5.

The DON discharged claimant on January 7 for the no-call no-show occurrences. Claimant did not contest them.

REASONING AND CONCLUSIONS OF LAW:

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(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The administrative law judge concludes employer established misconduct in the discharge of the claimant on January 6, 2014, for excessive "unexcused" absenteeism.

The employer followed the policy known to claimant that two incidents of no-call no-show are grounds for termination. Claimant did not challenge these occurrences at discharge and offer excuses at that time that she did in this hearing. The most credible evidence is she failed to timely contact the employer to report these absences that constitute job disqualifying misconduct.

DECISION:

The decision of the representative dated January 28, 2014, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on January 6, 2014. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs