

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CECELIA A DAVIS
Claimant

APPEAL NO. 11A-UI-06414-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AREA RESIDENTIAL CARE INC

Employer

**OC: 04/17/11
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 5, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 21, 2011. Employer participated by Teri Pitzen, Human Resources Director and Michelle Feuerbach, Third Shift Supervisor. Claimant participated and was represented by John Rosenthal from Teamsters Local 120. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was employed from March 15, 2009 through April 14, 2011. She was employed as a community living night instructor. She was discharged for falsification of documents related to the activities of clients. The claimant began filling out these documents in advance because she was concerned that she would not have time to at the end of her shift to fill them out and that she would be in violation of her probation if she worked beyond her shift. Claimant had been placed on a six-month probation on January 10, 2011 and notified that any rule violations would result in termination.

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(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.

The claimant submitted document logs that she believed were true and accurate. She filled them out early to save time and to facilitate her activities with the clients intending that her actions were in the best interest of her employer. She was not aware that her activity was a rule violation. The record does not establish disqualifying job misconduct.

DECISION:

The decision of the representative dated May 5, 2011, reference 01, is reversed. Benefits are allowed, provided claimant is otherwise eligible.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/css