

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER E STONE
Claimant

APPEAL NO: 12A-UI-07926-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BICKFORD SENIOR LIVING GROUP LLC
Employer

**OC: 05/27/12
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 20, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Michael Early, the director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in 2007. In 2012, the claimant worked as a full-time certified medication aide. The employer does not allow employees to punch in more than 15 minutes before a scheduled shift. During her employment, the employer talked to the claimant at various times because she frequently violated the employer's timecard policy by failing to punch in or out. The claimant understood that if she made a mistake on her timecard, the employer expected her to complete a missed timecard report. The claimant also understood the employer did not allow employees to sleep while on the clock.

On May 27, 2012, the claimant was scheduled to work at 3 a.m. Since the claimant did not usually work overnight shifts, she went to work at 12:30 a.m., so she would not again be late for this shift. When the claimant got to work, she punched in and went to sleep until 2:30 a.m.

A co-worker reported that when the claimant came to work at 12:30 a.m., she had asked the claimant if she had punched in. If the claimant had punched in, this co-worker could leave work early. The co-worker understood the claimant had not punched in and stayed until the end of her shift. When the co-worker left at 3 a.m., she reminded the claimant to punch in. The claimant responded that she had punched in earlier. The claimant worked the shift as scheduled. She did not complete a missed time punch report.

When Early reviewed the timecards on Tuesday, he noticed the claimant had punched in at 12:30 a.m. but was not scheduled to work until 3 a.m. The coworker who had talked to the claimant around 12:30 and 3 a.m., reported the claimant had slept from 12:30 to 2:30 a.m.

Since the employer had talked to the claimant before about punching in and out in accordance with the employer's policy and the co-worker had asked the claimant about punching in at 12:30 and at 3 a.m., the employer discharged the claimant for punching in at 12:30 a.m. when she was not scheduled to work until 3 a.m.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Even though the employer had not given the claimant any written warnings for violating the employer timecard policy, the claimant acknowledged the employer had talked to her a number of times about accurately recording the time she worked by punching in and out on the time clock. The claimant asserted she did not think the employer would pay her before her 3 a.m. shift, but the claimant punched in at 12:30 a.m. The claimant violated the employer's policy of not punching in more than 15 minutes before a scheduled shift.

Since an employee questioned the claimant twice about punching in on the time clock the morning of May 27, the claimant had opportunities to fix her timecard or even express concerns about her timecard because she punched in at 12:30 and was not scheduled to work until 3 a.m. The claimant did not express any concerns to the co-worker who talked to her that morning. The claimant's decision to punch in at 12:30 a.m. for a 3 a.m. shift and then failed to correct it, amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee.

If the claimant was so preoccupied with other issues that she did not think about "fixing her timecard," it is difficult to understand how she provided adequate care to people she was caring for that day. As of May 27, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's June 20, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 27, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs