

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

SARAH J JONES  
PO BOX 144  
SLATER IA 50244-0144

BOYS & GIRLS RESIDENTIAL  
TREATMENT CENTER INC  
PO BOX 1197  
SIOUX CITY IA 51102-1197

Appeal Number: 06A-UI-04841-CT  
OC: 03/26/06 R: 02  
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, 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:

Sarah Jones filed an appeal from a representative's decision dated April 26, 2006, reference 02, which denied benefits based on her separation from Boys & Girls Residential Treatment Center, Inc. After due notice was issued, a hearing was held by telephone on May 22, 2006. Ms. Jones participated personally. The employer participated by Marie Thomas, Human Resources Specialist, and Michelle Davis, Regional Coordinator.

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. Jones was employed by Boys & Girls Residential Treatment Center, Inc. from July 21, 2003 until April 17, 2006, as a full-time

residential counselor. The employer provides day treatment and alternative education for adolescents. On February 20, 2006, transport came to pick up a ten-year-old female client at 3:00 p.m. but the client refused to leave. It was Ms. Jones' intent to have the employer's night transport personnel take the client home.

The employer has a "transport board" on which staff are to note transportation needs. There is also a general log in which staff are to note any variations from the usual activities. Ms. Jones could not find either the "transport board" or the general log before leaving at 3:30 p.m. on February 20. She verbally notified the coworker who was present that the client was still in the building. The coworker apparently forgot the client was still in the building and all staff left for the day. The client left the building and used the telephone from a passerby to call home. As a result of the incident, child protective services conducted an investigation beginning February 21. It was determined that Ms. Jones failed to provide supervision for the client. Therefore, she was discharged from the employment on April 17, 2006. The above matter was the sole reason for the discharge.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Jones 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. Jones was discharged because she failed to document that a client was still in the building and in need of transport services, resulting in the client being left alone in the building after all staff had left for the day. Ms. Jones notified the coworker who was still in the building when she left that the client was still there. Ms. Jones had a good-faith belief that her coworker would see that the client received transportation. She used poor judgment in not making a written notation somewhere, even in the absence of the "transport board" and the general log.

Isolated instances of poor judgment do not constitute acts of misconduct. See 871 IAC 24.32(1). A single act of negligence is not sufficient to result in disqualification from job insurance benefits. Henry v. Iowa Department of Job Service, 391 N.W.2d 731 (Iowa App. 1986). While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

#### DECISION:

The representative's decision dated April 26, 2006, reference 02, is hereby reversed. Ms. Jones was discharged, but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kkf