

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BONNIE J FAIRCHILD**  
Claimant

**APPEAL NO. 09A-UI-10026-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**  
Employer

**OC: 05/31/09**  
**Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Good Samaritan Society, filed an appeal from a decision dated July 1, 2009, reference 01. The decision allowed benefits to the claimant, Bonnie Fairchild. After due notice was issued a hearing was held by telephone conference call on July 29, 2009. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Director of Human Resources Laurie Welch, Administrator Layne Gross and Director of Nursing Gwen Musick.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Bonnie Fairchild was employed by Good Samaritan from November 21, 2008 until May 8, 2009 as a full-time certified nursing assistant. On May 8, 2009, a government agency informed the employer that Ms. Fairchild was no longer eligible to work in the facility. She was discharged that same day by Human Resources Director Laurie Welch.

**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.

Before a claimant may be disqualified from receiving unemployment benefits, the employer must establish she was discharged for substantial, job-related misconduct. The employer has failed to provide any independent evidence of any misconduct which the claimant committed while in its employ. It has not met its burden of proof and disqualification may not be imposed.

**DECISION:**

The representative's decision of July 1, 2009, reference 01, is affirmed. Bonnie Fairchild is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs