

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY J BAZE
Claimant

APPEAL NO. 06A-UI-11918-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SOUTH CENTRAL HOME HEALTH INC
Employer

**OC: 10/08/06 R: 03
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 8, 2006, reference 04, that concluded she was discharged for work-connected misconduct.. A telephone hearing was held on January 10, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Lila Deemer participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a home health aide from June 9, 2006, to October 5, 2006. The claimant was informed and understood that under the employer's work rules, she was required to contact the employer regarding any changes to her schedule and was to personally call in regarding any absences.

The claimant made changes to her schedule on October 6, 2006, without notifying the employer and did not follow through with some scheduled home visits on October 6 and 7. The following week, her supervisor contacted her about meeting with her to discuss problems with not performing her work as scheduled but she called in sick on October 9, called in to say that she was going to the hospital with her daughter who was having a baby on October 10, and her daughter called in on October 11 because the claimant had agreed to baby-sit children her mother-in-law provided daycare to because her mother-in-law was unable to watch the children.

The employer discharged the claimant on October 11 for changing the schedule without notifying the employer, missing scheduled appointments, and not calling in personally to report her absence.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated December 8, 2006, reference 04, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid

wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css