

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN W RATLIFF
Claimant

APPEAL NO. 12A-UI-07109-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

OC: 05/20/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 7, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 10, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. David Randall participated in the hearing on behalf of the employer. Exhibits One through Five were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a maintenance worker for the employer from December 3, 2004, to April 28, 2012. He was informed and understood that under the employer's work rules, regular attendance was required and employees were required to personally notify their supervisor a minimum of two hours before the start of their shift if they were not able to work as scheduled. The claimant's supervisor was David Randall.

The claimant received a written warning on November 30, 2011, because he had failed to properly notify his supervisor about his absence on November 28. He was suspended on March 15, 2012, for failing to properly notify his supervisor that he was going to be late for work. He was told that this was his last chance on this issue.

On May 1, 2012, the claimant was scheduled to work at 8 a.m. He had recently run out of blood pressure medication. He had started back on the medication, but his blood pressure was still very high and he did not believe he should work. He had recently moved to a hotel, which only allowed local calls from the room. The claimant had his supervisor's cell phone number, but he could not dial out to the cell phone, because it was not a local number. The claimant did not have a cell phone at the time.

As a result, the claimant called the employer's answering service, which is supposed to be used by care staff employees if they have a problem in the house. It is not the proper number to call

off work. The claimant asked to speak to the on-call supervisor for home and community-based services, Niki Smith. She told him that he needed to call Randall between 6 and 7 a.m. The claimant insisted that Smith call Randall to let him know that he wouldn't be in. Smith said she would.

The claimant called Randall on his local work number at about 7:45 a.m. but got no answer. He tried a couple time afterward with the same result.

When the claimant reported to work on May 2, 2012, he was discharged for violating the employer's work rule requiring him to speak directly to his supervisor if he was going to be absent from work.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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. The claimant was warned it was his last chance and knew the employer was strict about its call-in procedure. As a result, when he moved into the hotel, he should have anticipated the need to call in for work and figured out some way of contacting his supervisor directly regarding absences.

DECISION:

The unemployment insurance decision dated June 7, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw