

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER J HOLMES**  
Claimant

**APPEAL NO. 11A-UI-00215-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRESTVIEW ACRES INC**  
Employer

**OC: 10-31-10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 17, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 17, 2011. The claimant did participate. The employer did participate through Mary Quigley, Administrator. Employer's Exhibit One was entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a licensed practical nurse full time beginning June 1, 2005 through November 1, 2010 when she was discharged.

On October 12, 2010 the claimant falsified a treatment administration record (TAR), signed out that she completed a dressing change for a resident. Another nurse following behind her found that the claimant had not changed the dressing as she indicated she had indicated in the TAR. The claimant admits that she did chart in the TAR that she had changed the dressing before she had actually completed the action. She was called away from the patient's bedside to perform another task and never returned to the bedside to complete the dressing change. The claimant admits that she should not have charted changing the dressing prior to actually performing the task. The claimant was suspended for three days in April 2010 for falsifying the TAR that she had completed a task when in fact another employee had done so. At that time she was warned that any further falsification of the TAR would lead to her discharge.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant could have avoided falsification of the TAR by merely only charting tasks after she completed them as was the standard and required practice. She did not do so, and knew or should have known that failure to follow the policies and practices would lead to her discharge. Claimant's repeated failure to accurately perform her job duties after having been warned is evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job related misconduct. Benefits are denied.

**DECISION:**

The December 17, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs