

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

CINDY L REED
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Appeal Number: 04A-UI-10675-CT
OC: 08/29/04 R: 03
Claimant: Appellant (1)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Cindy Reed filed an appeal from a representative's decision dated September 27, 2004, reference 01, which denied benefits based on her separation from Care Initiatives. After due notice was issued, a hearing was held by telephone on August 26, 2004. Ms. Reed participated personally and was represented by Steve Norby, Attorney at Law. The employer participated by Evon Weidemeier, Director of Nursing, and Gina James, Nurse Consultant. The employer was represented by Roxanne Bekaert, Attorney at Law.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Reed was employed by Care Initiatives from August 30, 1989 until September 1, 2004. She was last employed full time as activities director, a position she had held for the last 9.5 years of her employment. Ms. Reed was discharged for falsifying dates on residents' charts.

One of Ms. Reed's job duties was to complete a quarterly assessment of residents' abilities to engage in various activities. The due dates of the assessments are based on the residents' admission dates, not calendar quarters. There should be approximately 90 days between the quarterly assessments. At the end of one month or the beginning of another, a calendar is issued indicating when the assessments are due. In December of 2003, the employer received a deficiency rating from the State of Iowa because Ms. Reed's assessments had not been documented timely. At that time, the administrator reminded her that the assessments had to be done quarterly and on time.

On August 31, 2004, the nurse consultant was reviewing charts to determine if compliance standards were being met. She noted that quarterly activities assessments had not been completed on three residents. The assessments were due in mid-July, late July, and early August. When the nurse consultant reviewed the files again that same day, she noted that the assessments had been done in two of the three cases. Ms. Reed had completed the two the same day, August 31, but indicated in the chart a date which would have made her entries timely. Because Ms. Reed failed to indicate the date on which the assessments had actually been completed, the employer concluded that she had falsified the charts. Therefore, she was discharged on September 1, 2004. Ms. Reed had undergone compliance training on August 5, 2004. She had not notified the employer that she needed to be relieved of some of her other duties in order to complete her charting.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Reed 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. Reed was discharged for writing false dates on her activities assessments. Her entries left the impression that the charting was being done timely when, in fact, it was not. Ms. Reed was aware of the importance of timely and accurate charting as the employer had received a deficiency rating in December of 2003 because of her failure to adequately document her work. She received a monthly written reminder as to which assessments were due. The administrative law judge appreciates that Ms. Reed had a variety of job responsibilities. If her other duties interfered with her charting, it was her responsibility to give the employer notice so that alternative steps could be taken, such as having someone else perform her other duties while she completed her charting. Although the employer may have been aware that she was overwhelmed with work, the employer had no notice that a priority item such as charting was going undone.

Ms. Reed compounded her failure to do her assessments timely by recording an incorrect date as to when she did do the assessments. She was, in essence, attempting to cover up her failure to timely chart in the first place. Her conduct had the potential to jeopardize the employer's license to do business as a care facility. Her conduct could also have resulted in

penalties or sanctions against the employer. For the reasons stated herein, the administrative law judge concludes that the employer has satisfied its burden of proving disqualifying misconduct. Accordingly, benefits are denied.

DECISION:

The representative's decision dated September 27, 2004, reference 01, is hereby affirmed. Ms. Reed was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/tjc