

**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**

**BRENDA VREM
2006 – 12TH AVE #84
ELDORA IA 50627**

**HUBBARD CARE CENTER INC
403 S STATE
PO BOX 667
HUBBARD IA 50122-0667**

**Appeal Number: 04A-UI-03786-CT
OC: 03/14/04 R: 02
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:

Brenda Vrem filed an appeal from a representative's decision dated March 31, 2004, reference 01, which denied benefits based on her separation from Hubbard Care Center. After due notice was issued, a hearing was held by telephone on April 26, 2004. Ms. Vrem participated personally. The employer participated by Angie Kuda-Bruns, Administrator, and Mary Knutson, Director of Nursing.

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. Vrem was employed by Hubbard Care Center from March 27, 1997 until March 14, 2004 as a full-time certified nurse aide and certified medication aide. She was discharged from the employment. Ms. Vrem was off work March 8, 9, and 10 due to the birth of her grandchild on March 9. She spoke to the employer at approximately 5:00 p.m. on March 11 and indicated she would not be at work for her 10:30 p.m. shift that day. She was told that she either had to be at work or find a replacement. She did not find a replacement or work the shift herself. Ms. Vrem remained off work to be with her daughter. Neither her daughter nor her grandchild were experiencing any immediate health issues which required her presence at the hospital. Her daughter was released from the hospital on March 12. Ms. Vrem was notified of her discharge on March 14.

Ms. Vrem had been warned about her attendance on January 7, 2004 after she missed work on January 4 to take her husband to the airport in Kansas City. Although she knew on January 1 that she would be taking her husband to the airport on January 4, she did not advise the employer of this fact until January 3. She did not make any prior arrangements to be absent and did not arrange coverage for her shift. Ms. Vrem agreed to work on February 6 in exchange for having February 2, 3, and 4 off. However, on February 6, her husband called and advised that she would not be at work because she was taking her daughter to the hospital in Mason city for a possible C-Section. Her husband was asked to have Ms. Vrem call but she did not. Prior to 2004, Ms. Vrem had last been warned about her attendance on September 8, 2001.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Vrem 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 in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The final incident which triggered Ms. Vrem's discharge was her absence of March 11. The evidence does not establish any good cause for the absence. She had already missed three days of work due to the birth of her grandchild. The administrative law judge appreciates that Ms. Vrem wanted to be with her daughter and grandchild. However, she also had an obligation to her employer. Her daughter and grandchild were not in any imminent health crisis, which would necessitate Ms. Vrem remaining available at the hospital. In fact, her daughter was released from the hospital the following day. Ms. Vrem could have requested a leave of absence but did not do so. Given her length of employment, the administrative law judge believes she knew or should have known the process for requesting leave time.

Ms. Vrem was aware of the employer's expectations regarding her attendance after receiving the verbal warning in January of 2004. The absence of January 4 which caused the verbal warning is indicative of the lack of regard Ms. Vrem had for the employer's interests and standards. Although she had several days advance notice that she would need to be absent on January 4, she did not notify the employer until the day before the absence. 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 March 31, 2004, reference 01, is hereby affirmed. Ms. Vrem 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/kjf