

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RAQUEL R RODRIGUEZ**

Claimant

**APPEAL NO: 13A-UI-12935-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**

Employer

**OC: 10/27/13**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated November 14, 2013, reference 01, that held she was discharged for misconduct on October 22, 2013, and benefits are denied. A telephone hearing was held on December 11, 2013. The claimant, and Attorney, Andrew Bribresco, participated. K. D. Kalber, HR Director, and Paula Clarke, DON, participated for the employer. Employer Attachments Numbers 1-16, and Employer Exhibit 2 was received as evidence.

**ISSUE:**

Whether claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on December 8, 2005, and last worked for the employer as a full-time C.N.A. on October 22, 2013. Claimant received an employee handbook with the employer policy and it was reviewed at orientation. The Time Clock policy states: You must assure that your actual hours worked and absences are recorded accurately. Falsification of a time record ... is a breach of employer policy and will result in corrective action, including the possibility of termination of employment.

The employer Code of Ethics lists group offenses. A group III offense is consider extremely serious and a first offense termination. Falsifying information or records and intentional violation of rules and regulations are group III offenses.

The employer received an employee report about questioning claimant's report time to work the morning of October 16, 2013. Claimant was scheduled to start at 6:00 a.m. The employer does have a three-minute grace period where an employee is not considered tardy.

The employer watched a security video that shows claimant entering building three and the employee break room where the time clock is located. It shows claimant entering the building at

6:08 and seconds later the break room. She walked past the time clock to her locker, and left without using the time clock.

Claimant submitted a payroll edit time slip that she signed showing her start time at 6:03 a.m. The employer concluded claimant intentionally falsified the time slip by inaccurately recording her start time that should have been 6:00 a.m. The employer considered this first offense to be a group III offense and terminated claimant on October 22.

#### **REASONING AND CONCLUSIONS OF 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.

The administrative law judge concludes employer established claimant was discharged for misconduct on October 22, 2013 for employee dishonesty that is a group III serious violation offense.

It is apparent from the employer policy that it considers falsification of a time record to be so serious as to merit employment termination. Claimant was provided the policy. She offered no reasonable excuse for walking by the time clock in the break room and making no attempt to clock in at 6:08 a.m. Since claimant knew recording her start time at 6:03 a.m. would avoid a tardy issue, a reasonable inference is this was a consideration for her falsifying her start time.

Claimant argues this was an isolated offense, and the record does show she had not been disciplined in the past for the same conduct. The deliberate nature of claimant recording on a time slip 6:03 a.m. when she entered the time clock area at 6:08 a.m. shows this was not just a matter of poor judgment. She received the benefit of full pay for the day without a tardiness.

**DECISION:**

The department decision dated November 14, 2013 reference 01 is affirmed. The claimant was discharged for misconduct on October 22, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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