

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**COYLA R CLARK
416 S 4TH ST
MAQUOKETA IA 52060**

**GENESIS HEALTH SYSTEM
1227 E RUSHOLME
DAVENPORT IA 52803**

APPEAL NO. 09A-UI-18838-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

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:

***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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COYLA R CLARK
Claimant

APPEAL NO. 09A-UI-18838-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

OC: 11/29/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Coyla R. Clark filed a timely appeal from an unemployment insurance decision dated December 17, 2009, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held January 4, 2010. Ms. Clark did not respond to the notice by providing a telephone number at which she could be contacted. Human Resources Coordinator Kristen Nicholson participated for the employer, Genesis Health System.

ISSUE:

Was the claimant discharged for misconduct in connection with her employment?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Coyla R. Clark was employed by Genesis Health System from April 7, 2008 until she was discharged December 3, 2009. She worked as a certified nursing assistant. The final incident leading to the discharge occurred on November 30, 2009 when Ms. Clark left an alert resident on the toilet for between 15 and 30 minutes while Ms. Clark left the room. Ms. Clark left to go to the room of another patient, but two additional CNA's were assisting that resident.

Ms. Clark had received warnings on January 6, June 30, and September 6, 2009 for various issues including leaving a resident with dementia unattended on a toilet resulting in a fall and failing to answer call lights. Ms. Clark had received training on April 9, 2009 on the proper care of dependent adults.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her employment. It does.

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.

Since Ms. Clark did not participate in the hearing, the employer's testimony is not refuted. It establishes a series of incidents throughout 2009 in which Ms. Clark was given warnings for improper care of residents. This evidence is sufficient to establish misconduct. Benefits are withheld.

DECISION:

The unemployment insurance decision dated December 17, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs