

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA M RIEK**  
Claimant

**APPEAL NO. 09A-UI-16326-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOSAIC**  
Employer

**OC: 10/04/09**  
**Claimant: Appellant (1)**

Section 96.5-2-A -- Misconduct

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 23, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 14, 2010. Claimant participated. Employer participated by Angie Engrav, Habilitative Coordinator, and Rich Wicks, Executive Director. The employer was represented by Lynn Corbeil, Attorney at Law. The record consists of the testimony of Angie Engrav; the testimony of Rich Wicks; the testimony of Linda Riek; Claimant's Exhibit A; and Employer's Exhibits 1-12.

**ISSUE:**

Whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides supported community living services for adults with disabilities. The claimant was hired on March 31, 2006. She was a full-time direct support associate. Her duties were to train and serve clients to enable them to live in the community. The claimant's last day of work was October 5, 2009. She was terminated on October 6, 2009, for falsification of records concerning clients for whom she was providing services.

The falsification took place during the claimant's shift on October 4, 2009. She was asked to work from 3:30 p.m. through 11:30 p.m. Another staff person was present until 8:00 p.m. Two other staff members were on-call should the claimant need assistance. One of the residents was ill and had been to and from the hospital in recent days. The claimant called for assistance and Angie Engrav arrived around 9:00 p.m. As the claimant was leaving to take the sick resident to the hospital again, she told Ms. Engrav that one client needed to be given his medication.

When Ms. Engrav went to give the client the medication, she noticed that the claimant had already initialed the chart saying that the medication had been given. This was considered by the employer to be a serious violation of its policies and procedures because a medication error could result. Ms. Engrav also found out that the claimant had written a contact report covering a claimant's actions before those actions had actually taken place. The contact record is a type of legal document that is used for reimbursement for services. Document falsification could lead to fines by authorities.

Ms. Engrav discussed the matter with Rich Wicks, the executive director, and he concluded that given the severe nature of the violations, the claimant would be terminated. A meeting was held with the claimant on October 16, 2009. The claimant admitted that she had made the inaccurate entries.

The employer had a written work rule that prohibited falsification of Mosaic records, including client records. Termination could result if that work rule was violated. The claimant was aware of this policy.

#### **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.

Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duty to the employer. The employer has the burden of proof to show misconduct.

The evidence established that the claimant falsified two records concerning clients as she was providing services on October 4, 2009. She knew that her employer prohibited falsification of client records. She also knew that if the records were falsified that she could be terminated. An employer can reasonably expect that its work rules will be adhered to by its employees. The records in question were important records and needed to be accurate. The contact record was the basis for reimbursement and the medication record was necessary to show that prescribed medication was given to a client. Although the claimant was busy, this fact does not excuse the fact that false entries were made. The employer has established misconduct. Benefits are denied.

**DECISION:**

The decision of the representative dated October 23, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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