

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREA S LICCARDI**  
Claimant

**APPEAL NO. 09A-UI-11199-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXCEPTIONAL PERSONS INC**  
Employer

**OC: 06/21/09**  
**Claimant: Respondent (1)**

Section 96.5(2)a –Discharge for Misconduct

**STATEMENT OF THE CASE:**

Exceptional Persons, Inc. filed an appeal from a representative's decision dated July 28, 2009, reference 01, which held that no disqualification would be imposed regarding Andrea Liccardi's separation from employment. After due notice was issued, a hearing was held by telephone on September 30, 2009. Ms. Liccardi participated personally. The employer participated by Becky Van Langen, Program Manager, and Angie Tye, Human Resources Director. Exhibits 1 through 14 were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Ms. Liccardi was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Liccardi was employed by Exceptional Persons, Inc. from May 18, 2008 until June 24, 2009. She worked full time as a supported living staff member. The employer provides support to mentally and physically challenged adults living in a group home setting. She was discharged based on an allegation that she was documenting activities in advance. She was required to complete daily progress notes for the individuals assigned to her. The notes were to provide details of all activities and incidents during the shift. The notes were to document that services have been provided in order for the employer to receive payment from Medicaid for the services.

Ms. Liccardi had been warned on May 7, 2009 that she could not document that activities had occurred before they actually occurred. She was not always able to see what times events actually occurred. Therefore, she would note the activity or event but leave the time blank to be completed later after consulting with coworkers as to the timing of events. The decision to discharge was prompted by the fact that Ms. Liccardi failed to complete the documentation for one resident for June 4. She failed to indicate the date of the report and sign it. The employer also believed she had pre-documented activities for a resident on June 9. These failures were discovered by the employer on June 23. Ms. Liccardi was discharged on June 24, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

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). For reasons that follow, the administrative law judge concludes that disqualifying misconduct has not been established. The evidence failed to establish to the satisfaction of the administrative law judge that Ms. Liccardi was writing down activities before they actually occurred rather than after.

It was Ms. Liccardi's contention that she noted the activities after they occurred but did not always know the time they occurred if it involved another staff member. Therefore, she would need to check with that staff member to confirm the time. The fact that she left a blank to be filled in later as to the precise time does not establish pre-documenting. Her actions were not so substantial a deviation from the employer's standards as to constitute deliberate and intentional misconduct. While the employer may have had good cause to discharge Ms. Liccardi, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). Inasmuch as Ms. Liccardi's conduct did not evince a willful or wanton disregard of the employer's standards, no disqualification is imposed.

**DECISION:**

The representative's decision dated July 28, 2009, reference 01, is hereby affirmed. Ms. Liccardi was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css