

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

STEPHANIE J RIGGS
621 A AVE E
ALBIA IA 52531-1814

MONROE CARE CENTER INC
120 N 13TH ST
ALBIA IA 52531

Appeal Number: 06A-UI-07122-DT
OC: 06/11/06 R: 03
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

STATEMENT OF THE CASE:

Stephanie J. Riggs (claimant) appealed a representative's July 3, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Monroe Care Center, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 2, 2006. The claimant participated in the hearing. Shelly Bear appeared on the employer's behalf and presented testimony from two other witnesses, Debbie Duprey and Jenny Angrin. During the hearing, Claimant's Exhibit A was entered into evidence. Based on the evidence, the arguments of the parties and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 5, 2004. She worked part-time, primarily weekends, as a certified nursing aide (CNA) at the employer's long-term care nursing facility. Her last day of work was June 16, 2006. The employer discharged her on that date. The stated reason for the discharge was providing a false reason for an absence.

On Saturday, June 10, 2006, the claimant was scheduled to work a split shift from 6:00 a.m. to 11:00 a.m. and again from 4:00 p.m. to 9:00 p.m. The claimant had been experiencing some level of stress and had been seeing a mental health practitioner. On Friday, June 9, 2006, the claimant was feeling distraught and telephoned her practitioner. Her practitioner told her that if she was so stressed that she did not believe she could properly perform her duties, she should not work the next day, but that she should use her best judgment. The claimant did not take any action at that time to call work. On June 10, 2006 at approximately 4:45 a.m., she called in and spoke to the charge nurse, Ms. Angrin. She did not state that she was sick due to stress and that her practitioner had indicated she could be off work, rather, she reported that she had diarrhea and that she needed to stay home and rest. However, later that day the claimant left her home and attended a wedding from approximately 2:00 p.m. to 2:30 p.m. before returning home.

The employer later learned that the claimant had attended the wedding and concluded that the claimant had falsified the reason for her absence. Ms. Bear, the administrator, checked with the claimant's practitioner to verify the claimant's excuse and claim that the practitioner had excused the absence. The practitioner who indicated to Ms. Bear that she had not been aware that the claimant had planned to and did attend the wedding after calling off work for her shift both before and after the wedding, and that she understood that was a problem.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the employer discharged the claimant for reasons establishing work-connected misconduct. The issue is not whether the employer was right or even had any other choice but to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. Infante v. IDJS, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate decisions. Pierce v. IDJS, 425 N.W.2d 679 (Iowa App. 1988). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

Iowa Code § 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's providing a false reason for her absence shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's July 3, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of June 16, 2006. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

ld/cs