

**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**

**JENNIFER S STORJOHANN  
107 S 16<sup>TH</sup> ST  
MARSHALLTOWN IA 50158**

**GRANDVIEW HEIGHTS INC  
910 E OLIVE ST  
MARSHALLTOWN IA 50158**

**Appeal Number: 05A-UI-02483-CT  
OC: 02/06/05 R: 02  
Claimant: Respondent (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, 4<sup>th</sup> 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 for Misconduct

STATEMENT OF THE CASE:

Grandview Heights, Inc. filed an appeal from a representative's decision dated March 3, 2005, reference 01, which held that no disqualification would be imposed regarding Jennifer Storjohann's separation from employment. After due notice was issued, a hearing was held by telephone on April 6, 2005. Ms. Storjohann participated personally. The employer participated by Craig Koonce, Human Resources Manager

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Storjohann began working for Grandview Heights, Inc.

as a full-time certified nursing assistant on June 11, 2003. She completed training and became an LPN on February 11, 2004. On February 8, 2005, Ms. Storjohann left 14 tablets of hydrocodone, a narcotic, unattended at the nurses' station. The tablets had been prescribed for a resident and was to be taken as needed. Because the tablets were the same as another medication being taken by the resident, Ms. Storjohann contacted the resident's doctor to see if the hydrocodone could be discontinued. She had the tablets with her at the nurses' station when she was called to the dining room.

Ms. Storjohann did not anticipate being gone for more than 15 minutes and, therefore, did not lock the hydrocodone in the medication cabinet. She left the 14 tablets in their original "blister" pack with her clipboard on top of them at the nurse's station. Ms. Storjohann was gone for at least 30 minutes and did not check on the whereabouts of the tablets when she returned. Because of her failure to secure the narcotics on February 8, Ms. Storjohann was discharged on February 9, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Storjohann was separated from employment for any disqualifying reason. 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). Ms. Storjohann was discharged because she left a narcotic unattended. There is no question but that her conduct was negligent. However, negligence is only disqualifying if it is so recurrent as to manifest a substantial disregard of the employer's interest or standards. See 871 IAC 24.32(1). A single act of negligence is not sufficient to result in disqualification from benefits. Henry v Iowa Department of Job Service, 391 N.W.2d 731 (Iowa App. 1986).

The administrative law judge appreciates that the employer may have had good cause to discharge Ms. Storjohann. However, conduct which 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). For the reasons stated herein, benefits are allowed.

#### DECISION:

The representative's decision dated March 3, 2005, reference 01, is hereby affirmed. Ms. Storjohann was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/sc