

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**YOCAMMA M JONES**  
Claimant

**APPEAL NO. 08A-UI-00735-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EMPLOYMENT SERVICES**  
Employer

**OC: 12/16/07 R: 04  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Heartland Employment Services (Heartland) filed an appeal from a representative's decision dated January 7, 2008, reference 01, which held that no disqualification would be imposed regarding Yocamma Jones' separation from employment. Due notice was issued scheduling a hearing by telephone on February 5, 2008. Ms. Jones did not respond to the notice of hearing.

The employer responded to the notice of hearing. However, the designated witness was not available as he had left the employment the day prior, February 4, 2008. He had not advised anyone of the pending hearing. Because the employer did not have anyone with knowledge of the case available on short notice, it was agreed that the hearing would be postponed until February 6, 2008 at 10:00 a.m. As of February 6, Ms. Jones still had not responded to the notice of hearing. The employer participated by Tara Jenson, Regional Human Resources Manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Jones was employed by Heartland from July 1, 2002 until December 12, 2007. She worked full time as a certified nursing assistant (CNA) at Manor Care of Davenport. She was discharged for refusing to carry out a directive from her supervisor and for walking off the job.

On December 11, Ms. Jones was directed to turn a patient. She looked at the supervisor and then immediately walked out, prior to the end of her shift. As a result, she was discharged on December 12, 2007. Ms. Jones had received a final written warning on January 31, 2007 because she failed to complete showers. The warning also addressed complaints from

patients. She had received a warning concerning her attendance in June of 2007 but it does not appear that attendance was an issue at the time of separation.

Ms. Jones filed a claim for job insurance benefits effective December 16, 2007. She has received a total of \$1,579.00 in benefits since filing her claim.

**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). Ms. Jones' discharge was prompted by her refusal to follow a reasonable directive and her conduct in walking off the job on December 11, 2007. Turning patients is a reasonable expectation of a CNA. The evidence of record does not establish any justification for Ms. Jones' refusal to turn the patient as directed by her supervisor.

Ms. Jones' response to the directive that she turn a patient was to walk off the job. It was reasonable for the employer to expect her to remain at work until her shift was over unless given permission to leave early. The evidence of record does not establish any justification for Ms. Jones leaving work early without permission. Her actions had the potential of adversely impacting patient care as it resulted in one less person to provide services.

The administrative law judge concludes that Ms. Jones' refusal to carry out a reasonable directive combined with her walking off the job constituted a substantial disregard of the employer's standards and interests. Her conduct constituted insubordination and is misconduct within the meaning of the law. For the above reasons, benefits are denied.

Ms. Jones has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated January 7, 2008, reference 01, is hereby reversed. Ms. Jones was discharged by Heartland for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Jones has been overpaid \$1,579.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs