

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VALERIE A BERRY**  
Claimant

**APPEAL NO. 11A-UI-02793-PT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**URBANDALE HEALTH CARE CENTER LLC**  
Employer

**OC: 01/09/11**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated March 3, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 30, 2011. Employer participated by Daphne Michel, Cheri Price, director of nursing and Dawn Livingston, human resource director fleet manager. Claimant did participate. Employer's Exhibits 1-6 and Claimant's Exhibits A and B were admitted.

**ISSUE:**

The issue in this matter is whether claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was employed from July 12, 2010 through January 14, 2011. She was discharged for falsification records which was considered grounds for immediate termination under the employer's written policies. This policy was provided to the claimant at the time of hire. Claimant recorded that she had dropped a pill in the med cart chart. She wrote this as though she was the person who had dropped the pill. In fact, she had in violation of company policy, given the keys to the med cart to a co-worker who had told claimant the pill had been dropped.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant should have known that her actions were in violation of the employer's work rules. She had been warned about following employer's procedures and in the final instance she recorded something that she did not personally observe as though she had observed it. This is disqualifying misconduct.

**DECISION:**

The decision of the representative dated March 3, 2011, 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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Ron Pohlman  
Administrative Law Judge

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Decision Dated and Mailed

rrp/pjs