

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

EMMA BARBER
2216 W 4TH
DAVENPORT IA 52802

GOOD SAMARITAN SOCIETY INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-03286-CT
OC: 02/12/06 R: 04
Claimant: Appellant (2)

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 for Misconduct

STATEMENT OF THE CASE:

Emma Barber filed an appeal from a representative's decision dated March 14, 2006, reference 01, which denied benefits based on her separation from Good Samaritan Society, Inc. After due notice was issued, a hearing was held by telephone on April 10, 2006. Ms. Barber participated personally. The employer participated by Pam Lundgren, Director of Human Resources, and Tim Moe, Administrator.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Barber began working for Good Samaritan

Society, Inc. on August 31, 1998 as a full-time CNA. She sustained a work-related injury to her back on July 12, 2004. She underwent surgery in November of 2004. It was determined that Ms. Barber had reached maximum medical improvement as of May of 2005.

From May of 2005 until February 13, 2006, Ms. Barber was assigned to light-duty work. The employer accommodated the lifting and bending restrictions imposed by her care providers. In January of 2006, the employer did an analysis of Ms. Barber's job. It was determined that she was no longer able to perform the essential functions of her job. Therefore, she was relieved of her duties. There had been no change in Ms. Barber's work restrictions.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Barber was separated from employment for any disqualifying reason. The administrative law judge concludes that the employer initiated the separation from employment when the decision was made that she could no longer perform the essential functions of the job for which she was hired. Because the separation was initiated by the employer, it is considered a discharge. An individual who was discharged from employment is only 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. Barber was separated from employment because her medical restrictions resulting from a work-related injury did not allow her to perform the essential functions of her job and the employer declined to further accommodate her. Inasmuch as the separation was not due to any conduct on Ms. Barber's part, no disqualification is imposed.

DECISION:

The representative's decision dated March 14, 2006, reference 01, is hereby reversed. Ms. Barber was separated from Good Samaritan Society, Inc. for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/pjs