

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA L MALOTT
Claimant

APPEAL NO. 10A-UI-04219-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

**Original Claim: 02/14/10
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated March 10, 2010, reference 01, denying benefits based upon her separation from Good Samaritan Society, Inc. After due notice was issued, a telephone hearing was held on May 3, 2010. The claimant participated personally. The employer participated by Carol Tener, director of nursing, and Janice Foote, human resource coordinator.

ISSUE:

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Christina Malott was employed by Good Samaritan Society from July 28, 2005, until February 15, 2010, when she was discharged from employment. Ms. Malott held the position of full-time registered nurse/charge nurse and was paid by the hour. Her immediate supervisor was Carol Tener, director of nursing.

Ms. Malott was discharged from her employment with Good Samaritan Society, Inc. after it was determined that she had not followed administrative procedures on February 10, 2010. On that date, the claimant did not document taking the vital signs and document other required information on a new resident that day, although she was aware of the job requirement and had been previously warned for failure to document matters of that nature.

It is the claimant's position that she neglected to document the required information as she was performing services for the new resident and forgot to make the required documentation.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is.

Iowa Code section 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 evidence in the record establishes that Ms. Malott was aware of her job responsibilities and the obligation to document vital signs and statistics on a new resident. The claimant had demonstrated the ability to perform her duties in the past but did not follow the required procedures although she was aware of them. Because the claimant had been specifically warned for a similar failure to provide documentation in the past, the administrative law judge concludes that the claimant's failure showed a disregard for the employer's interests and standards of behavior that the employer had a right to expect of its employees and thus was disqualifying conduct under the provisions of the Iowa Employment Security Act. Benefits are withheld.

DECISION:

The representative's decision dated March 10, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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