

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL HASENWINKEL
Claimant

APPEAL NO: 11A-UI-04375-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRYSTAL PROPERTIES INC
Employer

OC: 03-28-10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 29, 2011, reference 06, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 27, 2011. The claimant participated in the hearing. Annie Shoemaker, DON, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time RN for Genesis Senior Living Center from September 16, 2010 to January 7, 2011. He was discharged for repeated lack of documentation on the medication administration records (MARS) and treatment administration records (TARS). On September 24, 2010, the claimant received a written warning for lack of documentation as there were numerous “holes” or omissions on the MARS and TARS records and a resident was sent to the emergency room where a physician’s assistant contacted the employer’s DON to state concerns about the residents care by the claimant that night. On October 28, 2010, the claimant received a written warning for lack of documentation on the MARS and TARS as again there were multiple omissions on the records. He also failed to double note and complete doctors’ orders correctly. On December 16, 2010, the claimant received a written warning for a lack of documentation on the MARS and TARS and not charting PRN orders on the back of the MARS. On January 5, 2011, he failed to show the administration of medications and did not sign out medications. The employer terminated his employment January 7, 2011.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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 claimant was warned in writing three times prior to his termination about his failure to correctly document the MARS and TARS charts. On those occasions there were multiple errors rather than simply one here or there and it happened repeatedly. In addition to the omissions addressed during the September 24, 2010, warning a resident was sent to the hospital and his/her condition was such that a physician's assistant in the emergency room contacted the employer's DON with concerns about the care of the resident the claimant was in charge of that evening. The October 28, 2010, warning discussed the claimant's failure to double note physicians' orders correctly as required and also holes in the MARS and TARS. On December 16, 2010, the claimant was warned for multiple omissions in the MARS and TARS. The final incident occurred January 5, 2011, when the claimant did not sign out medication or note its administration to residents. Consequently, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The March 29, 2011, reference 06, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has

worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css