IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

JEREMY PAIGE
Claimant

HILLCREST FAMILY SERVICES
Employer

APPEAL NO. 07A-UI-05024-SWT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 04/15/07 R: 04
Claimant: Respondent (2)

Section 96.5-2-a – Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 8, 2007, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 4, 2007. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Julie Heiderscheit participated in the hearing on behalf of the employer. Exhibits 1 through 12 were admitted into evidence at the hearing.

ISSUES:

Was the claimant discharged for work-connected misconduct?

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked full time for the employer as a youth care worker from April 6, 2004, through April 18, 2007. The claimant was informed and understood that he was to prepare individualized notes regarding remedial services provided to clients to supply documentation for obtaining reimbursement for those services. The claimant knew that reimbursement to be denied if the notes did not establish that individualized services were being rendered.

The claimant willfully violated the standards during the period from October 2006 through April 2007 by copying verbiage from one client's notes and pasting that same language in another client's notes. This was discovered by an auditor on April 11, 2007. After conducting an investigation, the employer discharged the claimant on April 18, 2007, for providing improper documentation of services rendered.

The claimant filed for and received a total of $387.00 in unemployment insurance benefits for the weeks between April 15 and May 5, 2007.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

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's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

> 7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid $387.00 in unemployment insurance benefits for the weeks between April 15 and May 5, 2007.

DECISION:

The unemployment insurance decision dated May 8, 2007, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid $387.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

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