

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WENDY S MARKEY
Claimant

APPEAL NO. 09A-UI-15375-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEALTHY CONNECTIONS INC
Employer

OC: 09/13/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 1, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 13, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Heather Antunez. Shan Baer participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a direct care and respite services provider from December 15, 2008, to August 31, 2009. The claimant had received a final written warning on May 27, 2009, regarding a confidentiality issue.

The employer discharged the claimant on August 31, 2009, based on its belief that a guardian was upset that the claimant had canceled some respite service appointments during the week of August 24 and had not notified the employer about the cancellations. There was one tentative respite appointment set up verbally between the guardian and the claimant for August 27. The claimant was ill and unable to keep the appointment so she contacted the guardian before the time she was to report. The guardian had no expectation that anyone would work in the claimant's place on August 27 and never complained that the claimant had done anything improper or had failed to report for any other scheduled appointments.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or

omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated October 1, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs