

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VERINA L STOVALL**  
Claimant

**APPEAL . 06A-UI-11556-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAREGIVERS IOWA INC**  
Employer

**OC: 11/05/06 R: 03  
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Verina L. Stovall (claimant) appealed a representative's November 28, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Caregivers Iowa, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 18, 2006. The claimant participated in the hearing. Jennie Fisher, Linda Thacker and Lori Applebee appeared on the employer's behalf. During the hearing, Employer Exhibits One through Three were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on April 7, 2006. The claimant worked as a part-time home health aide. Fisher and Thacker supervised the claimant.

At the time of hire, the claimant received a copy of the employer's handbook. The claimant understood the employer required employees to contact the employer, not the client or the client's caregiver, when the employee was going to be late or could not provide the services the client had contracted with the employer. (Employer Exhibit Two.)

On October 26, the claimant was scheduled to provide services to a client. The claimant called the client's caregiver, C., not the employer to report that she was running late. C. told the claimant her services were not needed that day. The claimant did not inform the employer about this. On October 27, when the claimant submitted her task records, she provided the employer with documentation that she had provided two hours of services to this client on October 26 when she had not provided any services. (Employer Exhibit One.) The claimant

completes paperwork before she provides services to a client. When the employer talked to the claimant about her October 26 documentation, the claimant indicated she just made a mistake.

On October 28, the claimant called C. and not the employer to report she was running late. The claimant did not provide services to the client on October 28 because C. told her that her services were not needed. The claimant did not report this to the employer. Prior to October 26, the employer talked to the claimant about the importance of providing services at the time scheduled with a client.

On October 30, a nurse visited the client as part of a supervisory call. C. then complained about the claimant not providing services on the weekends and that the claimant called C. a number of times. C. also showed the nurse a calendar she had kept regarding dates the claimant had not reported to provide the scheduled services to the client. The claimant had previously blackened out this information on C.'s calendar.

On October 30, the employer discharged the claimant because she failed to provide services to a client, presented the employer with fraudulent documentation regarding services she provided to a client and breached confidentiality by personally contacting the client's caregiver instead of contacting the employer when she was unable to perform services at the time scheduled.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew and understood that the employer required her to contact the employer, not the client or the client's caregiver, when the claimant was running late and unable to provide services at the scheduled time. The claimant's assertion that the caregiver told the claimant to contact her instead of the employer and that the caregiver would talk to the employer if the claimant got into trouble is not supported by the facts. The employer started investigating the claimant after this caregiver complained about the claimant's failure to provide services and the numerous phone calls the claimant placed to the caregiver. The claimant knowingly violated the employer's rules when she contacted the caregiver and not the employer. This by itself constitutes work-connected misconduct.

The claimant may not have intended to submit paperwork indicating she provided services for a client on October 26, but she did. If this had been the only problem, the evidence would not support the conclusion that the claimant committed work-connected misconduct. The combination of this problem in addition to the claimant's failure to follow the employer's rules about the contacting the employer instead of the client or the client's caregiver disqualifies the claimant from receiving unemployment insurance benefits.

**DECISION:**

The representative's November 28, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 5, 2006. This disqualification continued until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css