

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANA L DORRIS
Claimant

APPEAL NO. 13A-UI-13663-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

**OC: 11/17/13
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated December 5, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on January 22, 2014, in Davenport, Iowa. The claimant participated personally. The employer participated by Christina Ragan, sterile processing supervisor; Sue Jennings, director of surgical services; and Brandi Tiesman, director of human resources. The record consists of the testimony of Brandi Tiesman; the testimony of Christina Ragan; the testimony of Dana Dorris; Claimant's Exhibit A; and Employer's Exhibits 1 and 2.

ISSUE:

Whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a hospital and health care provider. The claimant was hired in June 1992. Her last day of work was November 15, 2013. She was terminated on November 15, 2013. At the time of her termination, she was a "charge sterile processing technician." She was a full-time employee.

The claimant was terminated for falsification of her time card on November 11, 2013, and November 13, 2013. Each employee is issued a badge, which is used to punch in and out. These punches constitute the time card for each employee. The claimant's normal work day ends at 5:30 p.m. The claimant wanted to leave early at 3:30 p.m. and so she gave her badge to another employee, who punched her out at 5:30 p.m.

The employer has a written policy which prohibits the use of the badge for this purpose. The policy also prohibits falsification of time records. Falsification of time records leads to termination of employment.

REASONING AND CONCLUSIONS OF 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.

Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duty to the employer. An employer can reasonably expect that an employee will be truthful when filling out time cards and will be at work when scheduled. The employer has the burden of proof to show misconduct.

The claimant is not eligible for unemployment insurance benefits. The evidence is uncontroverted that the claimant falsified her time records on two occasions. Another employee punched the claimant out at 5:30, when she actually left at 3:30. This is not a case where a mistake was made when filling out the time card. The claimant chose to leave early without permission of her supervisor and enlisted the assistance of another employee to falsify her time card. The claimant violated employer policy and breached her fundamental duty of honesty with the employer. The claimant was discharged for disqualifying misconduct. Benefits are denied.

DECISION:

The decision of the representative dated December 5, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefits amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs