

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E COLLINS

Claimant

**CREATIVE COMMUNITY OPTIONS INC
CANDEO**

Employer

APPEAL NO: 10A-UI-11558-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/27/10

Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 12, 2010, reference 02, that held she was discharged for misconduct on July 28, 2010, and benefits are denied. A telephone hearing was held on October 4, 2010. The claimant did not participate. Sara Nadermann, HR Director, participated for the employer. Employer Exhibit One was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time team leader from April 24, 2007 to July 27, 2010. The claimant requested and was granted FMLA for the period from June 17, 2010 thru July 5, 2010. The claimant returned to work after her leave had ended.

The employer received information claimant was accepting gifts of money and food from employer clients who are dependent adults. The employer initiated an investigation after receiving a client complaint. The employer suspended the claimant on July 27 when it confirmed that claimant had financially exploited one or more clients. The employer discharged the claimant on July 28, 2010 for financial exploitation of one or more dependent adults that is considered abuse, and it reported this matter to the Iowa Department of Inspections and Appeals, as a mandatory reporter.

The claimant did not respond to the hearing notice.

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.

The administrative law judge concludes the employer established claimant was discharged for misconduct on July 28, 2010.

The employer offered documentary evidence and testimony that claimant financially exploited one or more dependent adults that is considered abuse, and misconduct sufficient to deny unemployment benefits.

DECISION:

The department decision dated August 12, 2010, reference 02, is affirmed. The claimant was discharged for misconduct on July 28, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs