

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH J HEINOLD
Claimant

APPEAL NO. 13A-UI-11047-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OPPORTUNITY VILLAGE
Employer

**OC: 09/16/12
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 24, 2013, (reference 03) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on October 25 2013. Claimant participated. Employer participated through Cindy Westendorf, Human Resources Manager.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a personal support professional beginning on January 1, 2013, through September 4, 2013 when she was discharged. On August 31 the claimant was scheduled to work from 3:00 p.m. until 11:00 p.m. She did not have permission to leave work early. The claimant left work one hour early because her ride was leaving early. She violated the employer's work rules by leaving early. Her leaving early without permission or having someone cover her shift resulted in the clients being left unattended for one-half hour when the other worker who was scheduled to work until 10:30 p.m. left early. The administrative law judge is not persuaded that Carol ever gave the claimant permission to miss work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant did not have permission to leave work early to accommodate her rider schedule. By leaving early the claimant ended up leaving the resident unattended for one-half hour. Such a violation is serious and is substantial misconduct sufficient to disqualify the claimant from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The September 24, 2013, (reference 03) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css