

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEANA M SHIELDS**

Claimant

**APPEAL NO. 07A-UI-10793-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHRISTIAN OPPORTUNITY CENTER**

Employer

**OC: 10/21/07 R: 02  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, Christian Opportunity Center (COC) filed an appeal from a decision dated November 14, 2007, reference 01. The decision allowed benefits to the claimant, Deana Shields. After due notice was issued a hearing was held by telephone conference call on December 10, 2007. The claimant participated on her own behalf. The employer participated by Human Resources Director Angela Smith and Program Manager Brandon Pickering. Exhibits One, Two, Three, Four, Five, Six were admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Deana Shields was employed by COC from May 1 until October 22, 2007, as a full-time work skills supervisor. She was still on probation and had received two written warnings, or “last chance agreements” regarding her attendance and her failure to perform her assigned tasks. The employer was concerned about her not documenting her interactions with clients in a thorough, correct or timely manner.

The week of October 15, 2007, the employer learned that the claimant may have falsified one of her work reports from August 27, 2007. Ms. Shields had been assisting Erika in her search for employment and noted they had gone to three separate companies, obtained applications and came back to the office to fill them out. The documentation then stated “we returned them.”

It was learned that only two of the four applications had been returned to the businesses. Ms. Shields admitted she had not filled out the case notes until a week after she and Erika had filled out the applications even though she knew they were to be done immediately. The client was very perturbed when she learned only half of the applications had been sent back.

Ms. Shields was suspended on October 19, 2007, pending further investigation. The employer considered the notes to be falsified as it caused any reader to presume all of the applications had been returned, rather than only half of them.

In conjunction with the prior warnings about her failure to keep her case notes properly, the claimant was discharged by Program Manager Brandon Pickering and Human Resources Director Angela Smith at the conclusion of the investigation on October 22, 2007.

Deana Shields has received unemployment benefits since filing a claim with an effective date of October 21, 2007.

#### **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 claimant was discharged for misleading documentation on her case notes. This was not an isolated incident because she had been warned on other occasions about her poor performance in this area. Ms. Shields maintained it was not falsification of the notes but merely a "general statement" rather than a specific one about which of the applications had been returned. However, she also admitted she did not make the notes immediately but waited a week, contrary to the requirements of the employer. The accuracy of her recollections may therefore have been negatively impacted by the lapse of time.

The notes were misleading as any person reading them would presume all the applications were returned, which is not correct. This caused concerns for the client, and the outside agencies also helping the client, and impugned the credibility of the employer's services. It is conduct not in the best interests of the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of November 14, 2007, reference 01, is reversed. Deana Shields is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$823.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs