

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE D WILSON
Claimant

APPEAL NO. 07A-UI-00712-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCOTTISH RITE PARK INC
Employer

**OC: 12/24/06 R: 02
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Scottish Rite Park, Inc. filed an appeal from a representative's decision dated January 16, 2007, reference 01, which held that no disqualification would be imposed regarding Christine Wilson's separation from employment. After due notice was issued, a hearing was held by telephone on February 14, 2007. Ms. Wilson participated personally. The employer participated by Nicole Hammer, Human Resources Director. Exhibit One was admitted on the employer's behalf. The hearing record was reopened on February 16, 2007. The same parties participated as on February 14, 2007.

ISSUE:

At issue in this matter is whether Ms. Wilson was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Wilson was employed by Scottish Rite Park, Inc. from September 6 until December 27, 2006 as a full-time certified medication aide. She worked in the employer's home health program. She was discharged based on an allegation that she falsified information regarding a resident.

Ms. Wilson indicated in nurse's notes that she had gone to the residence of Elaine on December 15, 2006. Her notes indicated that she took medication to Elaine and that she was not in her clothes but planned to change into her clothes. Ms. Wilson noted that she had visited with Elaine on December 12. She indicated that there was no answer at Elaine's door on December 13 or December 14. The next notes are for December 19, at which time Ms. Wilson noted that Elaine's newspapers had not been picked up for that day or the two days prior. She was advised that Elaine was in the hospital. She was in the hospital from December 13 until December 21. Because she was hospitalized on December 15, the employer considered Ms. Wilson's notes of that date to be a falsification of records.

The employer became aware of the alleged falsification on December 19. Ms. Wilson was away from work due to illness on December 20, 21, and 22. Her supervisor was on leave December 23 through December 26. Ms. Wilson was notified of her discharge on December 27, 2006. The above matter was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Wilson was discharged because she entered incorrect information in a resident's records. The administrative law judge must determine whether her actions constituted a deliberate falsification or an inadvertence.

Ms. Wilson indicated that there was no answer at Elaine's door on December 13 and 14. These notes are consistent with the fact that Elaine was in the hospital at the time. Ms. Wilson noted that Elaine's newspapers had not been picked up when she went to her residence on December 19. These notes are likewise consistent with the fact that Elaine was in the hospital on that date. December 15 was the only date for which Ms. Wilson provided notes that were inconsistent with the fact of the hospitalization. According to her notes, she learned on December 19 that the resident had been hospitalized. If she was intending to give a false impression of her actions on December 15, it seems likely that she would have corrected her notes once she discovered that the resident was actually in the hospital on a day she said she visited with her. The fact that she noted that there was no answer at Elaine's door on December 13 and 14, dates she was in the hospital, establishes that she did, in fact, go to Elaine's on those dates. If she was intending to give a false impression regarding December 15, it would have been simpler to indicate that there was no answer on that date rather than indicating facts that were more susceptible to verification.

Ms. Wilson did not have a history of falsifying documents. On the evidence presented, the administrative law judge cannot conclude that Ms. Wilson deliberately falsified the document. It appears that she may have included notes from a different resident on the form intended for Elaine. If she was negligent in writing notes concerning one resident on the records for a different resident, her actions constituted only an isolated instance of negligence, which is not disqualifying misconduct. See 871 IAC 24.32(1). Given that there was no history of similar conduct on Ms. Wilson's part, any doubt concerning her intentions on December 15 are resolved in her favor. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated January 16, 2007, reference 01, is hereby affirmed. Ms. Wilson was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css