

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY A CROUCH
Claimant

APPEAL NO. 08A-UI-08329-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOPE HAVEN INC
Employer

**OC: 08/17/08 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Cindy A. Crouch (employer) appealed a representative's September 9, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Hope Haven, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 1, 2008. The claimant participated in the hearing. Lora Elsenbast appeared on the employer's behalf and presented testimony from one other witness, Amanda Morony. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 13, 2006. She worked full time as a residential instructor in a four-person group home in the employer's organization providing services to persons with disabilities. Her last day of work was August 11, 2008. The employer discharged her on that date. The stated reason for the discharge was not enforcing a client's care/service plan and being aware of the client's financial restrictions and circumstances.

On August 9, the claimant had walked with the client to a nearby convenience store so that the claimant could use her cash to buy a phone card, which was permissible. However, while they were at the store, the client persisted in wanting to buy a doll, which the claimant then allowed her to do. The claimant watched as the client paid for the doll by writing a check. However, it was part of the client's care/service plan that she only had a savings account and was not to have a check book; purchases would need to be with cash which had been approved for withdrawal and spending by the employer's staff. Even if the client had been allowed to have some form of checkbook or withdrawal draft book, the care/service plan required that it be held for the client until or unless its use was permitted. On August 10, another staff person discovered that the checkbook that the client had used was not the client's but belonged to another person who previously had worked at the home.

The claimant had been given prior warnings from the employer for failing to be familiar with and follow conditions in a client's care/service plan on April 24 and July 9, 2008. The April 24 warning in specific was due to a situation where the claimant had not made herself properly aware of a client's financial situation and had allowed a client (who was permitted access to her checkbook) to write a check about \$200.00 over the balance that the client had in her account. The employer concluded that in these situations the claimant had inexcusably placed the clients in jeopardy of legal repercussions; as a result, after the additional incident on August 9 after the prior warning, the employer discharged the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's failure to exercise proper attention to a client's financial arrangements and situation so as to place that client in legal jeopardy after prior warning shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's September 9, 2008 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of August 11, 2008. This disqualification continues until

the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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