

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHAWN M URBATSCH**  
Claimant

**APPEAL NO. 07A-UI-09413-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**  
Employer

**OC: 08/26/07 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated September 26, 2007, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on October 24, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Austin Blillie participated in the hearing on behalf of the employer with a witness, Char White. Exhibits One through Five and A and B were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a charge nurse and MDS coordinator from August 5, 1994, to August 23, 2007. MDS is the process by which the level of care given to a resident is assessed for determining reimbursement by Medicare, Medicaid, and private pay. She was responsible for coordinating the completion of the MDS form by various staff persons and signing the form certifying its completion and the date of its completion. The assessment covers a seven-day period of time. The claimant was informed and understood that under the employer's work rules, falsifying information and/or tampering with records was grounds for immediate termination.

The claimant had completed two MDS assessment forms for residents on August 17, 2007. In the normal course of business, she would have signed the form as complete on Monday, August 20, 2007. She was sick and unable to work on August 20. On the morning of August 21, the claimant reviewed the MDS assessment form, signed it, and mistakenly wrote August 20 on the date line. She did not do it deliberately to backdate the document or falsify information, but simply misread the calendar. Later in the day, the claimant completed and signed two other MDS assessment forms and correctly wrote August 21 on the date line.

The health information systems coordinator noticed the discrepancy on the dates and reported it to management. The administrator erroneously concluded that the claimant had deliberately put

the wrong date down on the MDS assessment form. Based on the employer's work rule, the employer discharged the claimant for falsifying information and/or tampering with records. There was no other reason for the claimant's discharge.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant testified credibly that she wrote the date

without thinking. In light of the routine practice for signing off on MDS forms on Monday, this is totally plausible. If the claimant was intent on backdating MDS forms, it would seem that she would have written August 20 on all four of them. At most, the evidence establishes an isolated instance of negligence, which does not meet the definition of misconduct.

**DECISION:**

The unemployment insurance decision dated September 26, 2007, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs