

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER M SAID
Claimant

APPEAL NO. 11A-UI-09900-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

**OC: 06/12/11
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 27, 2011, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on August 19, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Tom Elkins. Laura Meylor participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a provider of health care and other services to disabled individuals. The claimant worked for the employer as a direct support worker from August 23, 2010, to June 12, 2011. She was informed and understood that under the employer's work rules, she was required to maintain confidentiality regarding the individual's personal life, programs, and activities and was not to discuss an individual, their behavior, or individual programs to persons who do not have a need to know.

On March 24, 2011, the claimant was warned about running errands on company time and talking about work matters with persons in the community. On the same day, she was suspended for one day for because it was reported that she had informed a barber that the work hours of her client had been cut at the business the client worked at due to the business' financial problems. The owner of the business complained to the employer that the claimant had no business talking about this. Later, the client's mother called the employer and said her son had been told by the claimant that his hours had been cut because the boss was mad at the time. The claimant did not know why the client's hours were cut and did not make the statements attributed to her.

In late May 2011, the claimant was at the client's residence when the client's father stopped by. When he asked what she and his son planned to do, the claimant complained that other staff get to the take the client places but she wasn't able to because they did not leave any money for

her to take him places. She admitted that she and client had cashed in some recyclable cans so they had money to go somewhere. The father ended up reporting this to the client's mother who wrote an email on June 6, 2011, to the employer conveying what the claimant had said.

The employer considered the claimant's complaints to the father to be a discussion about staff issues or concerns that were confidential, and after investigating the situation, discharged her on June 13, 2011, for this conduct and her prior history of discipline.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. She should not have been complaining about other staff to the client's father especially in light of the past discipline she had been given. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated July 27, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs