

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

Appeal Number: 04A-UI-01029-DWT  
OC 12/28/03 R 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

EDWARD L CORRIGAN  
206 LINCOLN AVE  
OTTUMWA IA 52501

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

OTTUMWA DEVELOPMENTS INC  
OTTUMWA MANOR  
927 E PENN AVE  
OTTUMWA IA 52501

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Edward L. Corrigan (claimant) appealed a representative's January 22, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Ottumwa Developments, Inc., doing business as Ottumwa Manor (employer), would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 5, 2004. The claimant participated in the hearing. Paula Thomas, the director of nursing, and Dorothy Sapp, the day charge nurse, appeared on the employer's behalf. 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:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on November 26, 2002. He worked as a fulltime charge nurse on the 2:00 to 10:00 p.m. shift. His supervisor was Sapp.

On December 1, 2003, a resident fell and suffered head trauma. When the claimant reported to work, Sapp informed him about the resident's head injury. The claimant gave the injured resident her usual medicine even though two of them were psychotic drugs. Sapp and Thomas, however, concluded it was not prudent to give these two medications to anyone who recently suffered head trauma. A side effect of these medications causes a person to become dizzy.

On December 2, Sapp noticed the claimant gave the injured resident all of her medications when he worked on December 1. Sapp told him she had not given the resident either of these psychotic medications and he should not do so either. The employer contacted the resident's doctor.

On December 2, the claimant again gave the injured resident all of her medicine, including the psychotic drugs. He gave her the medicine because he concluded it would not be good idea just to cut her off from these addictive drugs. This resident appeared anxious and very agitated during his shift. The next morning when the resident got up, the resident again fell and hit her head. As a result of this fall, the resident had to have staples in her head.

On December 3, 2003, the employer asked the claimant why he gave the resident these drugs after Sapp specifically told him not to give the resident these drugs. The claimant had no answer except that he made a mistake.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew Sapp was his supervisor and she had not given the recently injured resident two medications that were psychotic drugs. The claimant knew or should have known he should not give the resident these drugs after Sapp talked to him on December 2 about why he had given the resident these drugs on December 1. Even if the claimant was unclear as to what he needed to do concerning the resident and the two psychotic drugs, it was his responsibility as a charge nurse to either get clarification from Sapp or Thomas or to contact the resident's physician. Instead, when the resident appeared anxious and was difficult to handle, the claimant administered the medication the employer told him not to give to the resident. A

preponderance of the evidence indicates the claimant committed work-connected misconduct by giving the medication to the resident after Sapp told him not to administer this medication to the resident. As of December 28, 2003, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 22, 2004 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 28, 2003. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/kjf