

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**CAROL M HULST**  
Claimant

**APPEAL NO. 18A-UI-05068-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**  
Employer

**OC: 12/31/17**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Carol Hulst (claimant) appealed a representative's April 26, 2018, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Good Samaritan Society (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 17, 2018. The claimant participated personally. The employer participated by Kelsey Mergen, Administrator, and Shelby Barnes, Interim Director of Nursing.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 29, 2018, as a full-time charge nurse. She signed for receipt of the employer's handbook on January 29, 2018. On February 28, 2018, the employer issued the claimant a written warning for making medication errors, not putting doctor's orders into the electronic medication record, and entering doctor's medication orders incorrectly into the electronic medical record. The employer retrained the claimant and gave her another copy of the medication pass policy. The employer notified the claimant that further infractions could result in termination from employment.

The employer noticed the claimant was continuing to make errors. On March 27 and 28, 2018, the employer had an employee watch the claimant pass medications. The claimant made medication errors on March 27 and 28, 2018. On March 28, 2018, the claimant felt she knew the procedures but did not follow them or carry a copy of the policy. She frequently had to be reminded to check the medication administration record before removing the resident's medication. A few times she said she knew she was doing something wrong and should not have done it. Once, she entered information in the computer that she had passed medication to a resident when she had not. The employer had to remind the claimant to give the resident's medication. On March 30, 2018, the employer terminated the claimant for failure to follow instructions.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions in passing medications. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's April 26, 2018, decision (reference 03) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs