

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDITH B WINDERS
Claimant

APPEAL NO. 08A-UI-08251-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HILLCREST FAMILY SERVICES
Employer

**OC: 08/17/08 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Judith Winders, filed an appeal from a decision dated September 11, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on September 30, 2008. The claimant participated on her own behalf. The employer, Hillcrest Family Services, participated by Vice President of Human Resources Julie Heiderscheit.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Judith Winders was employed by Hillcrest from December 27, 2000 until August 18, 2008 as a full-time visiting counselor. During the course of her employment, the claimant received a copy of the employee manual, which sets out the policies and procedures. One policy provides for immediate discharge for falsification of records and documents.

On August 11, 2008, two clients notified the employer they had not seen Ms. Winders “in some time.” An investigation was initiated to determine what contacts the claimant had documented and whether those contacts could be verified by independent means. The records of the Wellness Center were checked, as Ms. Winders had stated in the case notes she had taken one client there on certain occasions. Her presence at the Wellness Center on those dates could not be confirmed by the sign-in sheets and activity logs. Human Resources Manager Julie Heiderscheit, Assistant Program Supervisor Kim Nelson, and Director of Community Based Services Cindy Hess met with the claimant on August 13, 2008. She was presented with a letter of discharge at that time, which she refused to sign.

The employer gave Ms. Winders until August 18, 2008, to provide independent documentation of contacts with one client and attendance at the Wellness Center with the other client. She was unable to do so and came into work on August 18, 2008, to clean out her desk. Ms. Winders acknowledged she had falsified the notes in the one client’s case when she had

not, in fact, taken him to the Wellness Center, because he became very agitated and nervous. The claimant did not consult with her supervisor about how to handle the situation and simply put down she had taken the client when she had not.

The employer depends on these notes to bill third-party providers for services rendered to the clients. The claimant's falsified notes resulted in billing to these provides for services not rendered, which potentially had negative financial and legal repercussions for the employer.

REASONING AND CONCLUSIONS OF 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 claimant had acknowledged she falsified information in the client case notes even though she was aware of the policy that provides for immediate discharge of anyone doing so. Her explanation was that the client was uncomfortable with the scheduled activity at the Wellness Center. However, she did not consult with her supervisor about the best course of action and instead elected to falsify the case notes. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and is conduct not in the best interests of the employer. The claimant deliberately falsified the case notes and this is misconduct sufficient to warrant a denial of unemployment benefits.

DECISION:

The representative's decision of September 11, 2008, reference 01, is affirmed. Judith Winders is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw