

**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**

**MONA R PUTNEY
1742 ROTARY PARK RD
CHARLES CITY IA 50616**

**COMPREHENSIVE SYSTEMS INC
1700 CLARK ST
PO BOX 457
CHARLES CITY IA 50616**

**Appeal Number: 04A-UI-05807-CT
OC: 04/18/04 R: 02
Claimant: Appellant (2)**

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, 4th 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.

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 is based.

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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Mona Putney filed an appeal from a representative's decision dated May 12, 2004, reference 01, which denied benefits based on her separation from Comprehensive Systems, Inc. (CSI). After due notice was issued, a hearing was held by telephone on June 16, 2004. Ms. Putney participated personally. The employer participated by Mike Franke, Personnel Director.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Putney began working for CSI on July 22, 1996. She was working 38.5 hours per week as a direct care provider when she was suspended from work on March 19, 2004. The employer provides residential care for mentally and physically disabled individuals. The employer was required to suspend Ms. Putney after her name appeared on the adult abuse registry. She was on the registry because of allegations that she financially exploited her mother-in-law while the mother-in-law was residing with Ms. Putney and her husband. She has appealed the fact that her name appears on the registry. There has not been a hearing on the specific issue of whether her name should be on the registry.

Ms. Putney also appealed the determination that she was not allowed to work in CSI's facility. The employer confirmed to the Iowa Department of Human Services that Ms. Putney would not have access to funds belonging to residents. Therefore, the employer was given permission to allow Ms. Putney to return to work, which she did on June 8, 2004. The only stipulation was that she be closely supervised for 1040 hours and not be allowed access to residents' funds.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Putney was separated from employment for any disqualifying reason. She filed a claim for job insurance benefits because she had been suspended from work. An individual who is unemployed due to a suspension imposed by the employer is considered discharged and the issue of misconduct must be resolved. 871 IAC 24.32(9). Ms. Putney was suspended because her name appeared on the adult abuse registry and, therefore, the employer had no choice but to remove her from the employment as the employer is prohibited from employing individuals whose names appear on the registry. Where an individual's own conduct renders her unemployable by her employer, she is considered guilty of misconduct within the meaning of the law. See Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980). However, there must still be some culpability on the part of the individual. The fact that Ms. Putney's name appeared on the registry does not, in and of itself, establish that she was guilty of the conduct, which caused her name to appear on the registry.

The administrative law judge has no evidence on which to find that Ms. Putney was, in fact, guilty of the charges, which caused her name to appear on the abuse registry. Therefore, the administrative law judge cannot conclude that she engaged in conduct, which caused her to be unemployable by CSI. The administrative law judge appreciates that the employer had no choice but to suspend Ms. Putney from work because of the guidelines under which the employer operates its facility. While the employer may have had good cause to suspend Ms. Putney, conduct which might warrant a discharge or suspension from employment will not necessarily sustain a disqualification from job insurance benefits. See Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, it is concluded that disqualifying misconduct has not been established by the evidence. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated May 12, 2004, reference 01, is hereby reversed. Ms. Putney was suspended from work with CSI but disqualifying misconduct has not been established. Benefits are allowed for the duration of the suspension, provided she satisfies all other conditions of eligibility.

cfc/kjf