

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YAKANEZ M CARR
Claimant

APPEAL NO. 09A-UI-11440-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

OC: 06/28/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 27, 2009, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on August 25, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Larry Roberson participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a cardiovascular specialist in the radiology department from March 30, 1998, to June 26, 2009. She was informed and understood that under the employer's work rules, falsification of time records was grounds for discharge. On May 2004, the claimant had been warned after she was observed parking her car in the pick-up area near the front door, going in the building and punching in for work, and then later returning to park her car while she was on clock. She was told that if anything similar happened in the future, it would be dealt with severely.

On April 22, May 12, and May 13, 2009, the claimant was observed parking her car in the pick-up area near the front door and going in the building and punching in for work, and then later returning to park her car while she was on clock. Employees are not allowed to park their vehicles in the pick-up area.

On May 22, 2009, the claimant was scheduled to work at 8:00 a.m. at the west campus. She mistakenly reported to the east campus and went in and punched in at about 7:30 a.m. After discovering she had reported to the wrong campus, the claimant drove to the west campus but stopped at a gas station for gas and some coffee. The drive from the east to the west campus takes about 10 minutes. She did not report to the west campus for work until 8:10 a.m. When she reported to work, she failed to notify anyone in management that her time records needed to be changed.

Sometime in late May 2009, management received reports from employees that the claimant was difficult to find in the mornings. An investigation was conducted that included reviewing surveillance video. During the course of the investigation, the employer discovered the claimant's conduct on April 22, May 12, May 13, and May 22, 2009.

On June 22, 2009, the claimant was questioned about her conduct on April 22, May 12, May 13, and May 22, 2009. She claimed that her husband was supposed to pick up the vehicle on the days that it was left in the pick-up area, and she only moved the vehicle after discovering that he had failed to pick up the car. This claim is not believable for each of these incidents. She claimed that she had been instructed not to punch out when she went from campus to another, but the instruction only applied when there was a work-related reason to go from one campus to another.

The claimant was suspended on June 22, 2009, and discharged on June 26, 2009, for falsification of her time records, based on her claiming time when she was not actively working.

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 section 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 regarding falsification of her time records 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. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated July 27, 2009, 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