

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALICIA R VANDERMILLEN**  
Claimant

**APPEAL NO: 13A-UI-09725-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STONEHILL CARE CENTER**  
Employer

**OC: 07/21/13  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 14, 2013 determination (reference 01) that disqualified the claimant from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant participated in the hearing. Beth Schmitt, the human resource director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in May 2009. She worked 16 to 20 hours a week as a CNA and CMA. When the claimant was hired, she received a copy of the employer's rules. One rule informs employees they are not allowed to accept anything from a resident.

During her employment, the employer talked to the claimant about her reported erratic behavior in mid-December 2012. On March 21, 2012, the claimant received a written warning for attendance issues. Prior to June 15, 2013, the claimant's job was not in jeopardy.

On June 15, 2013, an employee reported the claimant was eating while assisting a resident. The employee reported that when she reminded the claimant the employer does not allow employees to eat while helping a resident, the claimant allegedly told the employee that she did not care.

On June 16, a supervisor saw the claimant wearing a resident's sweater. After the claimant acknowledged she was wearing a resident's sweater, she took it off and had the sweater laundered. Sometime before June 16, this resident's family members told the claimant she could wear the resident's sweater since the resident had a number of sweaters. On June 16, the claimant was cold and asked the resident if she could wear one of her sweaters. The resident, who is mentally challenged, told the claimant yes. No members of the resident's family

were present on June 16. The claimant had just put on the sweater when a supervisor saw the claimant and questioned who owned the sweater.

On June 17, the employer discharged the claimant because the employer's rules prohibit employees from taking anything from a resident. Most of the employer's residents have dementia or Alzheimer's.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known she could not accept anything from a resident. Even if a family member previously told the claimant she could wear a resident's sweater, no family member gave the claimant permission to do so on June 16. Since the resident may not have had the mental capacity to know what she was doing and the claimant knew about the resident's mental issues, her decision to ask and then put on a resident's sweater amounts to an intentional and substantial disregard of the standard of behavior the employer has right to expect when rules specifically prohibit an employee from doing this. The claimant committed work-connected misconduct. As of July 21, 2013, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's August 14, 2013 determination (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 July 21, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css