

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LUELLEN M ROWAN**  
Claimant

**APPEAL NO. 06A-UI-10785-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DUBUQUE COUNTY**  
Employer

**OC: 10/8/06 R: 04  
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 1, 2006, reference 01, that concluded the claimant was discharged for work-connected misconduct. A telephone hearing was held on November 27, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with her attorney at law, John Netti. Gayla Roarig participated in the hearing on behalf of the employer with a witness, Amy Bemis.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a certified nursing assistant for the employer from December 1, 2004, to October 6, 2006. Gayla Roarig, the director of nursing, was the claimant's supervisor.

On July 28, 2005, the claimant was caring for a resident who had the propensity of getting out of bed on her own but needed assistance in transferring herself. Individuals who put the resident to bed are required to set bed alarms to alert the staff if the resident attempted to self transfer. The claimant attached the alarm clip and believed she had set the bed alarms. About an hour and a half later, while the claimant was on an approved break, the resident got out of bed and sustained an injury. No one heard an alarm go off. It is possible that another employee or the resident herself could have turned off the alarm, but the employer determined the claimant was negligent and disciplined her for the incident in 2005.

The employer discharged the claimant for the same incident on October 9, 2006, after a state agency determined the claimant could not remain employed as a certified nursing assistant.

**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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

While the employer may have been justified in discharging the claimant, no current act of work-connected misconduct as defined by the unemployment insurance law has been established. The employer argues that it had no choice in the matter, but the standards for eligibility for unemployment insurance benefits cannot be ignored in this case.

**DECISION:**

The unemployment insurance decision dated November 1, 2006, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs