

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAQUAN R SACKO
Claimant

APPEAL NO: 13A-UI-10936-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DSM HEALTHCARE MANAGEMENT
Employer

OC: 08/25/13
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 18, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the employer discharged the claimant for nondisqualifying reasons. The claimant participated in the hearing. Robin Robbins, the director of nursing, 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 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 March 2013. She worked as a full time CNA. The claimant assisted residents in daily tasks. Her job required her to lift and push more than 25 pounds.

On August 25, 2013, the claimant gave the employer her doctor's work restriction that she could not lift or push and pull more than 25 pounds. The employer accommodates work restrictions when an employee's work restriction is the result of a work-related injury. The claimant's work restriction was not work-related. Since the employer could not accommodate the claimant's work restrictions and assign her to light-duty work, the employer removed her from the schedule. When the claimant no longer has this work restriction, she can reapply to work for the employer.

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 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 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).

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).

As of August 25, 2013, the claimant was unable to perform her job as a CNA because her physician restricted her from lifting, pushing and pulling more than 25 pounds. With this work restriction, the claimant was and is unable to perform her job duties as a CNA. The employer ended her employment by taking her off the schedule. The employer established justifiable business reasons for ending the claimant's employment. The claimant did not commit work-connected misconduct. Therefore, as of August 25, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's September 18, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of August 25, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs