

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JACKIE A HUDSON
Claimant

ALBERT CITY IMPR CORP
Employer

APPEAL NO. 20A-UI-04545-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 20, 2020, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on June 10, 2020. Claimant participated personally. Employer participated by Laura Westergard. Employer's Exhibits 1-11 were admitted into evidence.

ISSUE:

Whether claimant was discharged for misconduct?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 15, 2020. Employer discharged claimant on March 16, 2020 because claimant was making mistakes after repeated warnings that were putting patients at risk.

Claimant worked as a staff registered nurse for employer. She was employed by employer for slightly less than four months. During that time period she had events where she had missed ongoing training, had been a no call / no show for work, had refused additional training to aid in troubled areas of work, had not followed a doctor's instructions on properly changing dressings of a pancreatic ulcer patient, and had not properly changed meds in accordance with a doctor's order. Claimant received warnings or was written up for each of these incidents.

The last, most recent incident which led to claimant's termination occurred on March 14, 2020 when claimant was given orders to make sure the meds given to a patient were reduced by half. Instead of conveying these orders in a directive to those who would administer the medicine, claimant kept the old medicine in where the new medicine would be placed, not following procedures and effectively allowed a double dosing of a patient whose dosage was to be reduced by half. Claimant had previously refused additional training on documenting and recording dosage and other information when offered by employer.

This came after claimant had recently received warnings for giving substandard care to another patient.

Claimant has received \$2520.00 in state unemployment benefits.

Claimant has received \$4200.00 in FPUC unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand, 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982), Iowa Code § 96.5-2-a.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. The lack of a current warning may detract from a finding of an intentional policy violation. In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning proper cares for patients. Claimant was warned concerning this policy.

The last incident, which brought about the discharge, constitutes misconduct because claimant made errors regarding noting of medications after refusing additional training on the matter. Claimant had just recently been warned about substandard care for a patient, and then within a little over a week was not properly documenting and instructing coworkers about changes to medications she had been given. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

Claimant has received \$2520.00 in state unemployment benefits. Said benefits are overpayments.

Claimant has received \$4200.00 in FPUC unemployment benefits. Said benefits are overpayments.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The decision of the representative dated May 20, 2020, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Claimant has been overpaid \$2520.00 in state unemployment benefits and \$4200.00 in FPUC unemployment benefits.



Blair A. Bennett
Administrative Law Judge

June 25, 2020
Decision Dated and Mailed

bab/sam