

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN C FOX
Claimant

APPEAL NO: 12A-UI-00071-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HEALTH SERVICES – IOWA CORP
Employer

**OC: 11/27/11
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 23, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Aimee Kern and Kurt Harle 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 December 2003. She worked as a full-time compliance document specialist. The employer's policy requires employees to check out if they are gone from work for 30 or more minutes. If an employee forgets to check out or in, the employee can ask that her timecard be edited or corrected. An employee cannot make corrections on her timecard.

On November 25, the claimant clocked in at work at 9:04 a.m. She was running late that morning and did not take her three children to her childcare provider before going to work. After the claimant clocked in at work, she left right away to take her children to daycare. When the daycare was closed, the claimant went home. She did not contact anyone at work to let them know she had left, did not have anyone to take care of her children and would not be able to work her scheduled shift. While the claimant was gone, employees looked for her and could not find her.

The claimant returned to work between 3:30 and 4:00 p.m. She brought her children to work with her. The claimant did not clock in or have a supervisor edit her timecard when she returned to work. The claimant clocked out at 7:16 p.m. The claimant did not plan to have her timecard corrected.

When the employer could not find the claimant at work for the majority of November 25, the employer checked records the claimant may have accessed at work. On November 25 after the claimant clocked in at 9:04 a.m., the first time the employer could find she assessed a record was at 4:36 p.m. It would be unusual for the claimant to have only assessed one record when she reported to work around 9:00 a.m.

The employer talked to the claimant on Monday, November 28, and asked her to provide information to verify the time she worked on November 25. The claimant did not provide any information. Instead, the claimant admitted she had checked in around 9 a.m., left without checking out, was not at work until the late afternoon and did not have anyone correct her timecard. The employer discharged the claimant on December 1, for falsifying her timecard or for time theft.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's decision to punch in at work, leave and not return until seven hours later and then clock out at 7:16 p.m. without any intention of correcting her timecard amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from employees. The claimant committed work-connected misconduct on November 25, 2011. As of November 27, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 23, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 27, 2011. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css