

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODIE R BROWN
Claimant

APPEAL NO. 15A-UI-05818-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOSAIC
Employer

OC: 05/03/15
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 15, 2015, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on June 29, 2015. Claimant participated. The employer participated by Mr. Thomas Kuiper, Hearing Representative, and witnesses: Ms. Debra Grant, Ms. Valarie Ipsen, Ms. Pamila Geslicki, Ms. Sarah Tucker and Ms. Kaylee Nelsen. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct in connection with her work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jodie Brown was employed by Mosaic from April 21, 2012 until May 4, 2015 when she was discharged from employment. Claimant was suspended April 22, 2015 pending her subsequent discharge. Ms. Brown was employed as a full-time direct care associate and was paid by the hour.

Ms. Brown was discharged when the employer reasonably concluded that she had violated Mosaic policies by tying a resident's door closed by hooking it via ribbon across a hallway on to another door, preventing the resident under Ms. Brown's supervision from exiting his room.

The manner in which Ms. Brown had prevented the resident from leaving his room was observed by Sarah Tucker that evening and Ms. Brown had explained to Ms. Tucker that she had tied the ribbon onto the door handle preventing the resident from leaving because the resident had been misbehaving. Later after completing her work shift, Ms. Brown called back and instructed Ms. Tucker to take down the ribbon. Ms. Tucker believed the claimant's conduct was a violation of the resident's rights and reported the matter to management.

Kaylee Nelsen overheard Ms. Brown tell Ms. Tucker that she had placed restraints on the door of the resident's room.

After receiving a report about the matter, company management placed Ms. Brown on suspension pending an investigation into the matter. After being informed of the reason for her suspension and the investigation, the claimant did not deny the allegation. Later, when the matter was being investigated by an outside investigator, the claimant then stated that it was Ms. Tucker who had placed the restraint on the resident's door and not herself.

REASONING AND CONCLUSIONS OF LAW:

In discharge cases the employer has the burden of proof to establish disqualifying conduct on the part of the claimant. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct that may be serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

In the case at hand, the claimant was discharged after the employer investigated and determined that she had violated Mosaic policy by restricting a resident to his room and preventing the resident from freely entering or leaving the room as a form of restraint. The matter was reported by workers who were present when the incident occurred. Although the claimant was aware of the allegations made against her, she did not deny the allegations or indicate in any manner that another employee had tied the door so that it would not open, until a later date.

The testimony of Ms. Tucker is corroborated by the testimony of Kaylee Nelsen who overheard Ms. Brown tell Ms. Tucker that Ms. Brown had tied the "ribbon" on the door and the reason for it.

Although the administrative law judge is cognizant that the claimant denies any wrongdoing in this matter, the administrative law judge nevertheless concludes that the employer has sustained its burden of proof in establishing disqualifying conduct on the part of Ms. Brown. The testimony of Ms. Tucker is corroborated by the testimony of Ms. Nelsen who overheard Ms. Brown make admissions to Ms. Tucker on the night in question with respect to tying the resident's door in a manner that it would not open. Because the claimant was discharged for misconduct, accordingly, she is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated May 15, 2015, reference 01, is affirmed. Claimant was discharged for misconduct. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs