

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICOLE PEARSON**  
Claimant

**APPEAL NO: 11A-UI-04865-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GREAT RIVER MEDICAL CENTER**  
Employer

**OC: 03-13-11**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 6, 2011, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 9, 2011. The claimant participated in the hearing. Kara Sanders, Human Resources Generalist; Kevin Dameron, First Shift Housekeeping Supervisor; and Bill Shanks, Lead Housekeeper, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time housekeeper for Great River Medical Center from June 2, 2008 to March 17, 2011. She was discharged for refusing to perform her job duties as assigned. On March 13, 2011, the claimant was assigned to clean three rooms on the first floor as well as other rooms on the second floor. She disagreed with the room assignments delegated by the lead housekeeper, with whom she had a personality conflict, so she did not clean the three rooms she was assigned on the first floor. She also complained to another employee and used profanity about the situation and was standing around without working. When the lead housekeeper discovered at the end of the shift she had not cleaned the rooms in question he did so and reported the situation to First Shift Housekeeping Supervisor Kevin Dameron. On March 14, 2011, Mr. Dameron questioned the claimant about the incident and then conducted an investigation and concluded the claimant did not clean the rooms as assigned and complained about the room assignments to other employees and used profanity while doing so. He terminated her employment March 17, 2011, because that was the next step in the claimant's progressive disciplinary process. On September 18, 2008, the claimant received a final written warning for using a floor computer which was a violation of corporate policy and a confidentiality issue. Warnings drop off after one year. On December 15, 2009, she received a verbal warning for failing to clock out for lunch. On April 12, 2010, she received a written warning after she was discovered eating in the break room prior to break time and had

been on break for 40 minutes instead of the allowed 15 minutes. On May 3, 2010, she received a final written warning after the employer received several complaints about the claimant wandering the floor with another housekeeper, failing to return from scheduled breaks on time and selling the undergarments she sold as a side business at work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The claimant refused to do her assigned work because she had a personality conflict with the lead housekeeper who made the assignments that day. The housekeeping supervisor investigated the situation and found the lead housekeeper divided the rooms as evenly as possible and the claimant did not have any justification for refusing to clean the three rooms on the first floor other than she simply did not want to do the work assigned by that lead. That is not a good cause reason for failing to do assigned work and the claimant had a responsibility to follow the directives of the lead housekeeper even if she did not like him. The employer has established that the claimant received a verbal, written and final written warning and the last incident resulted in termination which was the next step in the disciplinary policy. Consequently, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an

intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

**DECISION:**

The April 6, 2011, reference 03, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs