

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACIE L NORDIN
Claimant

APPEAL NO. 09A-UI-01237-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY REGIONAL MEDICAL CENTER
Employer

**OC: 01/04/09 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Trinity Regional Medical Center (Trinity) filed an appeal from a representative's decision dated January 26, 2009, reference 01, which held that no disqualification would be imposed regarding Stacie Nordin's separation from employment. After due notice was issued, a hearing was held by telephone on February 12, 2009. Ms. Nordin participated personally and was represented by Kevin Fors, Attorney at Law. The employer participated by Ted Vaughn, Human Resources Manager and Denise Weston, Nurse Manager of Obstetrics. The employer was represented by Stuart Cochrane, Attorney at Law, who offered additional testimony from Kim Scorza of Bethany Christian Services. Exhibits One through Five were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Nordin was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Nordin was employed by Trinity from August 19, 1996 until January 5, 2009. She worked full time as a registered nurse. She was discharged based on a report that she violated a patient's right to confidentiality.

Bonnie Peterson, a social worker with Bethany Christian Services, reported to her supervisor, Kim Scorza, that Ms. Nordin had spoken to a patient regarding her own mental health issues on or about December 27, 2008. The patient, who is bi-polar, had given birth and had plans to place the child for adoption through Bethany Christian Services. Ms. Nordin told the patient that she, herself, had mental health issues but that it did not prevent her from being a good mother. She encouraged the patient to remain on her medication.

On December 28, Kim Scorza was at Trinity because another patient with adoption plans had given birth. After visiting with the patient, Ms. Scorza went to the nurses' station where Ms. Nordin was. Ms. Nordin's husband was present at the time. There was some discussion about the patient, but only her first name was used. Ms. Scorza believed Ms. Nordin had

violated the patient's right to confidentiality by discussing her in the presence of her husband and, therefore, reported the matter to Trinity on or about January 3. As a result, Ms. Nordin was discharged on January 5, 2009.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Part of the reason for Ms. Nordin's discharge was the fact that she shared her personal mental health issue with a patient. She was making a good-faith effort to be of assistance to the patient by giving her reassurance that her condition did not prevent her from being a parent. Her actions did not evince an intention of violating the employer's standards. Her actions were not clearly contrary to the employer's interests or standards.

The other reason for Ms. Nordin's discharge was that she discussed a patient in the presence of her husband, who is not an employee of Trinity and no independent right to any patient information. Although there was some discussion about the patient, the conversation did not concern her medical condition. Moreover, her full name was not used. Therefore, Ms. Nordin's husband would have had no way of knowing who was being referred to. Furthermore, Ms. Scorza engaged Ms. Nordin in conversation about the patient in spite of the fact that a stranger was present at the time.

At most, Ms. Nordin may have used poor judgment in making any mention of the patient's name in front of her husband. However, in viewing the totality of the circumstances, the administrative law judge concludes that this isolated instance of poor judgment is not sufficient to establish substantial misconduct. It is concluded, therefore, that the discharge was not predicated on a current act that constituted misconduct within the meaning of the law.

The next most previous adverse conduct on Ms. Nordin's part was represented by the performance review done on December 15, 2008 in which deficiencies in her performance were noted. However, the evaluation did not represent a current act in relation to the January 5, 2009 discharge. See 871 IAC 24.32(8). Inasmuch as the employer failed to establish a substantial and current act that constituted misconduct, no disqualification is imposed. While the employer may have had good cause to discharge Ms. Nordin, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits.

DECISION:

The representative's decision dated January 26, 2009, reference 01, is hereby affirmed. Ms. Nordin was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css