

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Renee Bentley was employed by Mercy Medical Center from August 7, 1985 until September 1, 2005. She was a full-time bookkeeper.

In the spring of 2005 Controller Deb Milder attended a controllers' meeting, and one of the subjects discussed was the importance of keeping track of credits from vendors. After the meeting she asked Ms. Bentley if she was keeping track of these, and the claimant assured her she was working with the materials management people and was "on top" of it.

In August 2005 the corporate headquarters was doing a "full scope" audit, which was a more intense and detailed audit than the routine yearly audit. Prior to the arrival of the auditor, Controller Deb Milder distributed schedules to all the bookkeepers indicating the reports for which they would be responsible. Ms. Bentley was to do the balancing of the accounts payable with the general ledger. She had attempted to have another employee do that report instead of her, but when Ms. Milder found out, she insisted Ms. Bentley do the work as it was assigned to her. This caused a considerable delay in the claimant's preparation of the report.

The claimant submitted her reconciliation report directly to the auditors in early August. The auditors returned the report to Ms. Milder the second week of August indicating it did not match. The claimant had put an incorrect figure in the report, falsifying the dollar figure from the general ledger so that it would match the figure from the accounts payable detail. The controller took the report back to the claimant, at which time Ms. Bentley showed her a spreadsheet she had been keeping to show where the discrepancies were. She was told to "fix it."

The audit also revealed there was \$78,000.00 in credits from vendors which had not been claimed or entered into the system. The employer had to "write off" almost \$50,000.00 of these credits because they were more than a year old, and some of the vendors were out of business and others were no longer suppliers for the employer.

Ms. Milder received a corrected copy of the reconciliation report from Ms. Bentley which was correct. But she continued to investigate the matter and consulted with the chief financial officer. It was concluded that she had deliberately falsified the reconciliation report she had submitted to the auditor, as she obviously knew the accounts payable did not balance with the general ledger since she had a spreadsheet which tracked the discrepancies. The controller concluded she had falsified the report because she did not have time to prepare it properly since she had tried to avoid doing it per the assignment by attempting to give it to another bookkeeper.

In addition, it was apparent she had not, in fact, been keeping track of the vendor credits, as there was a substantial amount of credits not accounted for in the general ledger and therefore uncollectible. She was discharged on September 1, 2005, by Ms. Milder at the conclusion of the investigation.

The administrative law judge notes the claimant's cell phone voice-mail greeting had been modified to respond to the call from the administrative law judge by giving some testimony and statements regarding the case. The judge did not consider the statements, as they were not "on the record" and were unsworn. In addition, they were out of context and it could not be determined what part, if any, of the employer's case they were in reference to.

Renee Bentley filed a claim for unemployment benefits with an effective date of August 28, 2005. She has received some benefits for which she has previously been determined to have been overpaid.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

Iowa Code section 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant deliberately falsified a report submitted to the employer's auditors, and she knew the report was false when she submitted it. This is evidenced by the fact she had a spreadsheet already prepared which would have accounted for the discrepancies. It is not known specifically why the claimant did not simply incorporate the information from the spreadsheet into the reconciliation report, but the controller's contention that the claimant did not have the time to prepare the report properly because she had attempted to avoid the responsibility for it seems likely.

In addition, it is evident the claimant was not, in fact, keeping "on top" of the vendor credits, because there was a substantial dollar amount of credits which were over a year old and uncollectible by the employer. This caused a financial loss to the medical center.

An employer has the right to expect employees to perform their duties in a timely and professional manner, and not to falsify records. The claimant failed to fulfill her job responsibilities and attempted to cover this by submitting information she knew to be incorrect to the auditors. This is conduct not in the best interests of the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of September 20, 2005, reference 01, is reversed. Renee Bentley is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjw