

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHANDRA M SNOW**  
Claimant

**APPEAL NO. 15A-UI-06619-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BROADLAWNS MEDICAL CENTER**  
Employer

**OC: 05/10/15**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Chandra Snow (claimant) appealed a representative's May 29, 2015, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Broadlawns Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 9, 2015. The claimant was represented by Luke DeSmet, Attorney at Law, and participated personally. The employer participated by Julie Kilgore, Vice President of Human Resources, and Kristina Harlow, Director of Outpatient Clinics. Valerie Landis, Attorney at Law, observed the hearing. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibits One and Two were received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 15, 2006 as a full-time certified medical assistant. The claimant signed for receipt of the employer's Human Resources Manual on May 15, 2006. On February 27, 2009, the employer issued the claimant a written warning for allowing others access to her computer and inappropriate discussions. On November 5, 2012, the employer issued the claimant a written warning for inappropriate communications. The employer notified the claimant that further infractions could result in termination from employment.

The claimant received Managing Aggressive Behavior Training which taught the claimant to reflect, clarify, and summarize an aggressive person's statements. She also received telephone etiquette training. This taught her to repeat or rephrase a caller's words to confirm understanding and to take phone messages word-for-word. The claimant was never told she could not use profanity.

The claimant was assigned to work in the outpatient behavioral health unit in March 2015. She was told by two individuals not to transfer a mental health individual directly to the patient advocate. She was told to transfer to a go-between person first. On May 11, 2015, the claimant received a call from a patient who needed a medication refill. A note on the account indicated the patient needed an appointment before the medication could be refilled. The patient began yelling and screaming from the beginning of the call. The patient did not want to be on hold and the claimant tried to transfer the patient repeatedly. The claimant offered a number to call but the patient refused. The patient cursed at the claimant and expressed her discontent. The patient said the employer "fucked up." The claimant reflected the patient's feelings back by saying "we messed up." The claimant later said "we screwed up." Finally the claimant repeated what the patient said, "So you are saying we fucked up." The call went on for fifteen minutes with the patient yelling and using profanity. The claimant repeatedly told the patient if the yelling continued, she would hang up. The yelling continued. The claimant told the patient she was hanging up and disconnected the call. The patient called the claimant back but the claimant was with a patient and could not take calls. On May 13, 2015, the employer terminated the claimant for inappropriate conduct.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). The employer did not provide sufficient evidence of job-related misconduct. The claimant followed the employer's training by reflecting back the statements she heard. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's May 29, 2015, decision (reference 01) is reversed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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