

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CASSANDRA M BAST**

Claimant

**APPEAL NO: 12A-UI-03332-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES OF IOWA**

Employer

**OC: 01/29/12**

**Claimant: Appellant (1/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 28, 2012 determination (reference 05) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Rochelle Jordan, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in early August 2011 as a full-time customer service representative. The employer's client is a pharmaceutical company. The claimant received special training because if she made an error, the pharmaceutical company could receive a substantial fine. The claimant worked with Medicaid claims or questions. The employer audited employees' work, including the claimant, every Monday to make sure they completed all the necessary information when handling calls on the client's behalf.

The employer talked to the claimant on January 10 or 11, 2012, after learning on January 9 she made an error on a call the previous week. The claimant failed to list any phone number in the case communication. This error could result in a \$1,500.00 fine to the client pharmaceutical company.

During the January 16, 2012 audit, the employer again discovered the claimant made an error the week of January 9. She made the same error the employer had talked to her about that week. As a result of the second error, the employer gave the claimant a final written warning on January 16, 2012. The warning informed the claimant that if she made another error, she could be discharged.

In addition to giving the claimant a final written warning, the employer started monitoring her work every day. On January 19, the employer again discovered the claimant made a third error

after she received the January 16 final warning. The claimant again failed to record a phone number in the communication case.

The employer discharged the claimant on January 23 for making the same critical error after she had been warned her job was jeopardy for this problem.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Since the claimant did not participate in the hearing, it is not known why the claimant continued to make the same error the employer talked to about in early and mid-January 2012. After the claimant received her final written warning on January 16, she knew or should have known her job was in jeopardy. The fact the claimant made the same error after she was warned, establishes negligence or carelessness to the extent that she committed work-connected misconduct. As of January 29, 2012, the claimant is not qualified to receive benefits.

If the claimant received any benefits, she was not legally entitled to receive these benefits and has been overpaid. The issue of overpayment will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's March 28, 2012 determination (reference 05) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 29, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. An issue of overpayment for any benefits the claimant as received since January 29, 2012, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css