

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

VERONIKA A RONE
Claimant

APPEAL NO: 19A-UI-04256-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HILLCREST FAMILY SERVICES
Employer

OC: 04/21/19
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 13, 2019, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 19, 2019. The claimant participated in the hearing. Daniel Nettie, Vice-President of Human Resources; Julie Heiderscheit, Chief Executive Officer; and Joseph Crowley, Vice-President of Community Based Services, participated in the hearing on behalf of the employer. Claimant's Exhibits A and B and Employer's Exhibits 1, 2, 10 and 11, 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 human resources generalist for Hillcrest Family Services from January 19, 2018 to April 25, 2019. She was discharged for violating the employer's standards of confidentiality.

On April 23, 2019, the employer learned of a conversation the claimant had with a program manager February 2, 2019, about her supervisor and the claimant said, "They wanted to get (the supervisor) fired" (Employer's Exhibit 2). Some houses in the program were closing and the claimant was speculating about personnel changes and attempting to extract information from the program manager. The supervisor's job was not in jeopardy but he heard it was and went to the employer extremely upset about the situation.

On April 23, 2019, Clinic Manager LeAnne Sharkey went to Vice-President of Community Health Services Joseph Crowley's office with her driver's license, social security card and other legal and educational documents. Mr. Crowley had not requested any of those items from Ms. Sharkey and neither Mr. Crowley nor CEO Julie Heiderscheit mentioned there was a question about those issues to Ms. Sharkey.

On April 24, 2019, Mr. Crowley had a conversation with Ms. Sharkey wherein Ms. Sharkey expressed concern about the way other employees were treating her. Ms. Sharkey told Mr. Crowley the claimant told her that Mr. Crowley and CEO Julie Heiderscheit were “out to get” Ms. Sharkey and the claimant told her to “leave this place while you can.” Ms. Sharkey told Mr. Crowley she was angry with the claimant at the time and as a result the claimant told her Mr. Crowley and Ms. Heiderscheit were investigating Ms. Sharkey. The claimant was aware Mr. Crowley and Ms. Heiderscheit were conducting an investigation into Ms. Sharkey because she had two different last names on her driver’s license and social security card and there was a question of whether she disclosed that information on her background checks prior to hire. They were also investigating whether Ms. Sharkey had the educational credentials she stated. The claimant was in the human resources office when these issues were discussed and relayed the information to Ms. Sharkey. The employer made that determination after speaking to Ms. Sharkey and considering the fact the claimant was present when Ms. Sharkey’s name and training files were discussed and because they had not mentioned those situations to Ms. Sharkey before she presented information about the issues to Mr. Crowley April 23, 2019. The employer concluded the claimant violated its confidentiality policy and terminated her employment April 25, 2019 (Employer’s Exhibits 1, 10 and 11).

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 section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual’s wage credits:

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 disqualification shall continue 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 proving disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1).

As a human resources professional the claimant had a duty to keep confidential information. The claimant's job description states, "Confidentiality regarding information about personnel matters and client issues to which they have access is mandatory" (Employer's Exhibit 10). The employer's policy on confidentiality requires all staff member to "respect the privacy of clients and co-workers and hold in confidence all information obtained in the course of providing services" (Employer's Exhibit 11). The disciplinary policy calls for termination of employment for the "unauthorized release of any confidential information regarding the agency, its employees (past or present), or its clients" (Employer's Exhibit 11). Human services demands confidentiality from its employees and as a human resources generalist in the field the claimant had an even greater duty to adhere to the standards of confidentiality but failed to do so.

Under these circumstances, 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 May 13, 2019, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs