

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

LAURA D JESSEN  
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CARE INITIATIVES  
c/o TALX-JOHNSON & ASSOCIATES  
PO BOX 6007  
OMAHA NE 68106

Appeal Number: 05A-UI-08457-DWT  
OC: 06/26/05 R: 01  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Laura D. Jessen (claimant) appealed a representative's August 10, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Care Initiatives (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 31, 2005. The claimant participated in the hearing. Suzanna Ettrick, an attorney, represented the employer. Larry Allen and Laurie Burhahn, the director of nursing, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

#### FINDINGS OF FACT:

The claimant started working for the employer on September 20, 2000. The claimant worked as a full-time LPN. As an LPN, the claimant is required to follow standard nursing procedures when giving medication to residents.

On June 16, 2004, the claimant inadvertently gave a resident the wrong kind of insulin. The claimant was in the process of getting insulin from a bottle for a resident, when she was interrupted. When the claimant was able to get to her medication duties, she accidentally picked up the wrong bottle of insulin and gave the resident the wrong insulin. The employer gave the claimant a written warning for this medication error.

On June 4, 2005, someone other than the claimant opened a bottle of insulin the pharmacy had labeled incorrectly. The claimant and other nurses gave a resident the wrong insulin until June 24. On June 24, the claimant reviewed the medication records carefully because the resident had medical problems that were not explainable. The claimant then discovered the insulin bottle had been incorrectly labeled by the pharmacy.

The claimant immediately reported these findings to Burhahn. The claimant and the other nurses who gave the incorrect insulin to the resident all received written warnings. Since the claimant had the earlier medication error in June 2004, the employer discharged her for failing to follow the proper procedures when administering medication to a resident.

#### 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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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).

The employer established compelling business reasons for discharging the claimant. Although a medication error is a very serious matter, two other nurses gave the resident the wrong insulin because a pharmacist had incorrectly labeled the bottle. The evidence does not establish that the claimant was grossly negligent or careless when she administered the insulin. The facts do not establish that the claimant intentionally failed to follow the procedures when administering

medication. Under the facts of this case, the claimant did not commit work-connected misconduct. As of June 26, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 10, 2005 decision (reference 01) is reversed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected misconduct. As of June 26, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjw