

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**AMANDA D DODSON**  
Claimant

**IA DEPT OF CORRECTIONS/FT MADISON**  
Employer

**APPEAL 21A-UI-16978-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/09/21  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Amanda D Dodson, the claimant/appellant, filed an appeal from the July 22, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 28, 2021. Ms. Dodson participated and testified. The employer participated through Tasha Whalen, nursing services director, and Erin Bewley, Corporate Cost Control hearing representative. Employer's Exhibit 1 was admitted as evidence.

**ISSUE:**

Was Ms. Dodson discharged for disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Dodson began working for the employer on June 20, 2003. She worked as a full-time registered nurse. Her employment ended on May 10, 2021.

On April 13, 2021, Ms. Whalen, Ms. Dodson's supervisor, sent Ms. Dodson an email letting her know that the employer had received the Pfzier COVID-19 vaccine to be administered to the people who are incarcerated at the Iowa State Penitentiary (ISP). The email included information about the vaccine, and how to administer the vaccine.

On April 20, Ms. Whalen asked Ms. Dodson, and another nurse to administer the Pfzier COVID-19 vaccine to people incarcerated at ISP in Housing Unit 2. The other nurse had over thirty years of experience, but was in new-hire probationary status at the time. Ms. Dodson asked the other nurse which part of the process they would like to do – either draw up the vaccine, or administer the vaccine and have recipients complete the Centers for Disease Control and Prevention (CDC) form, and the Iowa Department of Corrections (DOC) form. The other nurse chose to draw up the vaccine. That entailed the other nurse putting the component parts together, drawing the medicine out of the vial into a syringe, and handing the syringe to Ms. Dodson. Ms. Dodson took the already filled syringe from the other nurse, administered the

vaccine, and had the recipients complete the two forms. In total, Ms. Dodson administered the vaccine to seventy-seven people.

Ms. Dodson had previously administered the flu vaccine and the Moderna COVID-19 vaccine in a team with another nurse. When she did so, Ms. Dodson and the other nurse would split the work in the same manner.

Ms. Dodson and the other nurse returned to the medical building because it was lunch time for the people in Housing Unit 2. Ms. Dodson looked in the medical refrigerator and the freezer to get more of the vaccine to finish the task. She saw none. Ms. Dodson then located a Pfizer vial, read the information, and learned that she and the other nurse had made an error. The seventy-seven people who Ms. Dodson and the other nurse administered the vaccine to received six times the recommended dose of the vaccine.

Ms. Dodson reported the incident to Ms. Whalen. Ms. Whalen contacted the on-site doctor, the head pharmacist, who was off-site, the CDC, and Pfizer. Ms. Dodson went back to the Housing Unit 2 and told each person to whom she had given the vaccine about the error. The employer also sent other nurses to the unit to monitor the people who had been given the vaccine.

On April 21, the employer put Ms. Dodson on administrative leave. Ms. Dodson met with the employer twice as they conducted an investigation. On May 10, the acting warden, and security director called Ms. Dodson and told her that her employment was terminated due to a medication error. The employer sent Ms. Dodson an Employee Separation Form wherein "Just-Cause Discharge" was checked as the reason for the termination, but provided no additional details about the rationale for terminating Ms. Dodson's employment.

Ms. Whalen testified that the employer's policy requires registered nurses to acknowledge that they know how to administer medication. Ms. Dodson acknowledged receiving the policy on October 23, 2016. Ms. Whalen testified that Ms. Dodson should have known based on her nursing training how to administer the correct dose, and she should have taken steps to ensure the vaccine she was administering was the correct dose.

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

For the reasons that follow, the administrative law judge concludes Ms. Dodson was discharged from employment for no disqualifying reason.

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 employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dept of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dept of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dept of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

The conduct for which Ms. Dodson was discharged was incident of poor judgment. Ms. Dodson and another nurse divided their work in the same way that Ms. Dodson had done in the past, and administered COVID-19 vaccines. Without a doubt, a medication error was made resulting in seventy-seven people receiving more than the recommended dose of the vaccine. However, the fact that a mistake was made and the mistake impacted many people does not, on its own, mean Ms. Dodson engaged in misconduct. A claimant will not be disqualified if the employer shows only "inadvertencies or ordinary negligence in isolated instances." 871 IAC 24.32(1)(a). Ms. Dodson's conduct in this instance does not indicate "such degree of recurrence as to manifest equal culpability, wrongful intent or evil design" such that it could accurately be called misconduct. Iowa Admin. Code r. 871-24.32(1)(a); *Greenwell v. Emp't Appeal Bd.*, No. 15-0154 (Iowa Ct. App. Mar. 23, 2016). Ordinary negligence is all that is proven here. Because the employer has failed to establish disqualifying misconduct, benefits are allowed, provided Ms. Dodson is otherwise eligible.

**DECISION:**

The July 22, 2021, (reference 01) unemployment insurance decision is reversed. Ms. Dodson was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



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September 30, 2021  
Decision Dated and Mailed

dz/mh