

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PATRICIA B WOOD**  
Claimant

**APPEAL NO. 14A-UI-01698-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELMWOOD CARE CENTER LLC**  
Employer

**OC: 01/05/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 4, 2014, reference 01, that concluded the claimant's discharge was for work-connected misconduct. A telephone hearing was held on March 6, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Aaron Newman. Melissa Donnelly participated in the hearing on behalf of the employer with a witness, Nancy Clayton. Exhibits One, Two, and Three were admitted into evidence.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as a registered nurse for the employer from January 31, 2013, to January 2, 2014. She had been coached on September 12, 2013, for allowing a resident who was at risk of elopement from the facility to be outside. She was coached on November 6, 2013, for leaving work early without a supervisor's approval.

The claimant was informed and understood that under the employer's work rules, drugs and biologicals were to be stored in a safe, secure, and orderly manner and compartments (including drawers, cabinets, refrigerators, carts, boxes, and rooms) containing drugs and biologicals were to be locked when not in use. The policy was commonly ignored and nurses would for convenience sake leave the door unlocked for period of time on the evening shift.

On December 29, 2013, the a.m. shift nurse accidentally took the key to the medication room with her when she left work. She discovered she had the keys and notified a nurse on duty, Aaron Newman, that she was bringing the keys back.

When the claimant reported to work, she found out from Newman that the a.m. nurse was on the way in with the keys the claimant was to have and would be there shortly. Newman decided that he would leave the door unlocked until the a.m. nurse arrived so the claimant would not have to retrieve his keys if she needed to access the med room. The narcotics in the room

were in a locked cabinet inside the room. He propped the door open with a garbage can. He and the claimant kept an eye on the door until the a.m. nurse arrived with about a half hour of the claimant reporting to work. A housekeeping supervisor contacted the director of nursing and informed her that the medication room door was open.

The employer held the claimant responsible for the medication room door being open and discharged her on January 3, 2014. Newman received no discipline for his actions.

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

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The unemployment insurance rules provide: "While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act." 871 IAC 24.32(8).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (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 substantial and 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).

The employer had failed to prove that the claimant committed willful and substantial misconduct in regard to the medication room incident. Newman was the one who unlocked and propped open the door. The preponderance of the evidence establishes that the door was open for a short period of time and either the claimant or Newman were able to see the door. Newman and the claimant testified very credibly that it was a common practice on the night shift to leave the door unlocked for convenience.

**DECISION:**

The unemployment insurance decision dated February 4, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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