

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RUBY D SANDERS**  
Claimant

**GENESIS HEALTH SYSTEM**  
Employer

**APPEAL 17A-UI-03740-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/05/17**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Ruby D. Sanders (claimant) filed an appeal from the March 28, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination Genesis Health Care (employer) discharged her because she failed to perform satisfactory work even though she was capable. The parties were properly notified about the hearing. A telephone hearing was held on April 28, 2017. The claimant participated. The employer did not respond to the hearing notice and did not participate.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a Collections Specialist beginning on May 11, 2015, and was separated from employment on March 9, 2017, when she was discharged. In November 2016, the claimant's department manager went on medical leave and the claimant reported directly to Supervisor Christine Shelton. Shelton began monitoring the claimant's work for quality and accuracy; however, she did not monitor other employee's quality and accuracy until February 2017.

On February 27, 2017, the day before the claimant went on medical leave, Shelton gave her a warning stating if her job performance, specifically her quality and accuracy, did not improve she would be discharged. The claimant returned to work on March 9, 2017 and worked an hour before Shelton discharged her. While the claimant was on leave, Shelton had reviewed more of the claimant's work pre-dating February 27, 2017 and determined her quality and accuracy were still not adequate.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason. Benefits are allowed.

Iowa law disqualifies individuals who are discharged from employment for misconduct from receiving unemployment insurance benefits. Iowa Code § 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.* Iowa regulations define misconduct:

“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.

Iowa Admin. Code r. 871-24.32(1)a. 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). An employee's termination cannot be based on past misconduct. Iowa Admin. Code r.871-24.32(8).

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. The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't 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 Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be “substantial.”

The employer has not met the burden of proof to establish that the claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. The claimant denies her performance was subpar. The employer has not provided any evidence to show the claimant failed to meet its standards and it failed to provide any policies which the claimant's conduct violated. Additionally, the claimant was not given the opportunity to improve after her most recent warning as she did not work between the final warning and her discharge. Accordingly, benefits are allowed.

**DECISION:**

The March 28, 2017, reference 01, unemployment insurance decision is reversed. The claimant 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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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

src/rvs