

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PEGGY S KRAMER**  
Claimant

**FAMILY MEDICINE OF CEDAR VALLEY P**  
Employer

**APPEAL 21A-UI-08545-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/07/21**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the March 25, 2021 (reference 01) unemployment insurance decision that denied benefits based upon claimant's discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on June 9, 2021. The claimant participated personally. The employer participated through witnesses Dr. Darron Cutler and Dottie Cutler. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**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: Claimant was employed part-time as a nurse at the employer's medical clinic. She was hired on or about July 9, 2018 and her employment ended on February 5, 2021 when she was discharged from employment.

On February 2, 2021, Dr. Cutler had learned from a patient that she overheard the claimant giving Wanda, the employer's secretary, information about another patient and that patient's son, who had tested positive for Covid-19. The patient informed Dr. Cutler that she heard the exact words that the claimant used, including the first and last names of both patients and their medical diagnosis of being Covid-19 positive.

The claimant had been in the reception area when she answered a telephone call from this patient who had informed her that she and her son had tested positive for Covid-19. Claimant then verbally informed Wanda with this information using a loud level of voice and disclosing both patient's first and last names, as well as each of their medical diagnosis. Claimant believed that the waterfall, which was near the reception desk, would have covered her voice while she gave Wanda this information; however, it did not.

Dr. Cutler told the claimant he needed to do an investigation into the matter and instructed the claimant not to come into work for two days while the investigation was pending. Claimant had been verbally warned numerous times about using a level of voice in the office which was loud,

causing others to hear her conversations. Claimant even had a note at her desk reminding herself to keep her voice low or to whisper in the office so others could not hear her talking. Claimant was aware that medical information about patients is considered confidential information. There was a window that could have been closed by the claimant prior to disclosing the confidential information to Wanda, but it was not closed by the claimant. Because this was not the first time that the claimant had been warned about using a loud level of voice in the office, and the fact that the employer may have been subject to HIPPA fines, the claimant was discharged from employment after Dr. Cutler completed his investigation.

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

For the reasons that follow, the administrative law judge concludes as follows:

Claimant was discharged from employment. As such, 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).

Iowa Code § 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.

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).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of

misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

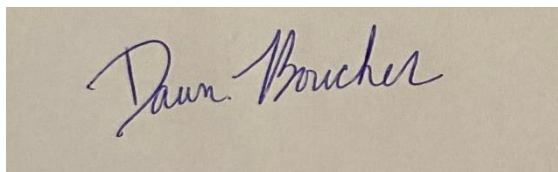
Iowa Admin. Code r.871-24.32(8) provides:

(8) Past acts of misconduct. 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.

Claimant was aware that she was required to keep patient information confidential. Claimant was aware that her level of voice used in the office was loud enough for others to hear the information she was disclosing. Claimant even had a note at her desk reminding herself to follow this rule. Claimant had been verbally warned about this issue in the past prior to discharge. On February 2, 2021, the claimant verbally disclosed confidential information in the office in a way in which another person, who was not allowed to have this information, overheard. This is a material breach of her duties and obligations that arose out of her contract of employment with the employer and was done in a way in which her carelessness and negligence rose to such a degree of recurrence as to manifest an intentional and substantial disregard of the employer's interests. As such, the employer has established that the claimant was discharged for substantial misconduct. Benefits are denied.

**DECISION:**

The March 25, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment for job-related misconduct. The separation from employment is disqualifying and benefits are denied until claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her February 5, 2021 separation date, and provided she is otherwise eligible.



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Dawn Boucher  
Administrative Law Judge

June 22, 2021  
Decision Dated and Mailed

db/mh

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- You will need to apply for PUA to determine your eligibility under the program. For additional information on how to apply for PUA go to: <https://www.iowaworkforcedevelopment.gov/pua-information>. If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found at: <https://www.iowaworkforcedevelopment.gov/COVID-19>