

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH A HAPTONSTALL
Claimant

APPEAL NO. 12A-UI-00664-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REGAL MANORS OF ONAWA INC
Employer

**OC: 01/23/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Regal Manors of Onawa Inc. filed a timely appeal from a representative's decision dated January 10, 2012, reference 02, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on February 14, 2012. Claimant participated personally. The employer participated by Mr. Craig McNaughton, Administrator and Ms. Mellissa Donnelly, Director of Nursing.

ISSUE:

The issue in this matter is whether the claimant was discharged for intentional misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Sara Haptonstall was employed by Regal Manors of Onawa Inc. from July 14, 2008 until December 12, 2011 when she was discharged from employment. Ms. Haptonstall held the position of charge nurse/lpn and was employed on a full-time basis. The claimant was paid by the hour. Her immediate supervisor was the director of nursing, Mellissa Donnelly.

A decision was made to terminate Ms. Haptonstall from her employment with the captioned nursing facility based upon a error that the claimant made in transcribing a physician's medication orders for a newly admitted resident on December 8, 2011. The individual who had not previously been a resident of Regal Manors of Onawa had been admitted to a hospital via emergency room and the individual's physician had sought an emergency admission to the nursing facility during late night hours. The resident was admitted to the Regal Manors of Onawa facility the morning of December 8. The claimant was presented with approximately 50 pages of paperwork and documentation by the director of nursing and Ms. Haptonstall was instructed to admit the new resident.

When going through the voluminous paperwork Ms. Haptonstall did not note computer-generated dismissal orders from the hospital. Ms. Haptonstall found what she believed to be the most recent physician orders and transcribed the medications and their

dosage off those orders. Because the claimant did not believe that the patient had been hospitalized to the extent that new discharge orders would accompany her, Ms. Haptonstall believed that the documentation that she found in the paperwork was the correct documentation and used it to prepare the admission orders for the resident at Regal Manors.

When the additional discharge orders were noted the following day by a different nurse, the matter was brought to the attention of management and a decision was made to terminate Ms. Haptonstall from her employment believing that the claimant's error had jeopardized the resident and subjected the employer to potential liability.

Prior to the claimant's discharge Ms. Haptonstall had been warned about an issue regarding the weight of patients and had received a written warning and suspension for the use of inappropriate language on one occasion.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes intentional misconduct sufficient to warrant the denial of unemployment insurance benefits. It does not.

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.

The employer has the burden of proof in establishing job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating the claimant but whether the claimant is entitled to unemployment insurance benefits. Infante v. Iowa Department of Job Service, 364 N.W.2d 262 (Iowa 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 Department of Job Service, 425 N.W.2d 679 (Iowa 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” when based upon carelessness the carelessness must actually indicate a “wrongful intent” to be disqualifying in nature. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). Substandard performance is not misconduct in the absence of evidence of intent. Miller v. Employment Appeal Board, 423 N.W.2d 211 (Iowa 1988).

An employer may discharge an employee for any numbers of reasons or for no reason at all if it is not contrary to public policy but if the employer fails to meet its burden of proof in establishing job-related misconduct as the reason for the separation the employer incurs potential liability for unemployment insurance benefits relating to that job separation.

In the case at hand the claimant did not elect to choose a previous physician orders over more recent hospital dismissal orders in transcribing admission information for the resident in question. Based upon the information at hand Ms. Haptonstall believed that the physician orders that she found were the most recent orders and transcribed them. The claimant was not aware that the approximate 50 pages of paperwork also contained hospital dismissal orders that varied the resident’s medication and dosage.

The question before the administrative law judge is not whether the employer had a right to discharge Ms. Haptonstall for these reasons but whether the discharge is disqualifying under the provisions of the Employment Security Law. While the decision to terminate the claimant was undoubtedly a good decision from a management viewpoint, the evidence in the record does not establish intentional disqualifying misconduct sufficient to warrant the denial of unemployment insurance benefits. While the administrative law judge does not condone or sanction lack of attention or carelessness that may have caused harm to the resident, the administrative law judge concludes that the claimant’s conduct was more in the nature of an isolated instance of poor judgment caused by other information and the voluminous amount of paperwork at the time of admission. Unemployment insurance benefits are allowed providing the claimant meets all other eligibility requirements of the law.

DECISION:

The representative's decision dated January 10, 2012, reference 02, is affirmed. The claimant was discharge for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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