

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT A ADAMS**  
Claimant

**APPEAL NO. 06A-UI-11052-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA JEWISH SENIOR LIFE CENTER**  
Employer

**OC: 10/22/06 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 14, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 4, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Joy Foster participated in the hearing on behalf of the employer with a witness, Stephen Blend.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time as a nurse for the employer from June 1, 2006, to October 17, 2006. On October 14 a nurse applied the wrong ointment on a resident's feet. The doctor's order had changed the ointment. The nurse inaccurately reported in the treatment record that she had applied the ointment per doctor's orders.

When the claimant arrived at work, the nurse reported her error to him and said that she was going to report the error to a supervisor. After the nurse had left work for the day, the claimant noticed that the treatment record inaccurately reflected that the nurse had applied the ointment per doctor's orders. He put a circle around the nurse's initials. When nurses completing a treatment record circle their initials, it means there is further information regarding the entry in the chart. The claimant circled the initials to make sure the nurse made an entry in the chart explaining that the wrong ointment had been administered. The claimant did not believe he was altering or falsifying anything on the chart. The claimant later applied the correct ointment to the resident's feet and properly documented it.

The next day, the nurse found her initials circled and asked the claimant whether he had circled the entry. The claimant admitted he had and said he did it so the nurse would not get into trouble. The nurse was upset that the claimant had marked her entry and reported to management.

On October 17, 2006, the employer discharged the claimant for altering a treatment record. The claimant was aware that altering a treatment record was improper but did not understand that simply circling initials constituted an alteration of a medical record.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

**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.

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 to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. At most, the claimant made a good-faith error in judgment, which is not disqualifying misconduct. No willful and substantial misconduct has been proven in this case.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated November 14, 2006, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw