

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LYNETTA K KUENNEN
Claimant

APPEAL 17A-UI-06916-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODWILL INDUSTRIES HEARTLAND
Employer

**OC: 06/11/17
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the June 30, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 4, 2017. Claimant participated and was represented by Gerald Kucera, Attorney at Law. Employer participated through senior company vice president/CFO Tamera Erb and accounting manager Wendy Ma. The employer was represented by Heather Cichon of Sedgwick Unemployment. The administrative law judge took official notice of the administrative record, including fact-finding documents.

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 as a full-time accounts receivable (AR) specialist through June 9, 2017. Her last day of work was June 2, 2017. Beginning in April 2016, the employer's procedures changed during the process of moving Iowa from Medicaid to managed care organizations (MCO) and the transition of billing from the State of Iowa to three separate MCOs. There were delays in claimant's work while she waited for contracts to be signed, the mission service (MS) providers to notify AR what to bill for, and waiting for the vendor to get formats uploaded into the system. The process functionality with Vertex began in mid-May or June 2016, so the usual five-to-seven-day delay to submit the previous month's claims increased, as did the volume of explanation of benefits (EOB). During this time claimant expressed concern about how the transition was being handled. Shortly thereafter claimant felt various forms of intimidation by lengthy meetings about details of her job not required or requested before. The employer split up the AR work with Excel spreadsheets beginning in June 2016, through November 2016, depending on MCO. At least one person assigned to assist claimant made repeated errors. Another coworker uploaded duplicate files causing claimant more work. Claimant missed a week of work in November 2016, and two weeks in April 2017, for FMLA matters. (Administrative Record.) During the autumn of 2016, all three vendors were to upload billing

information into Vertex. Before claimant could complete billing for payment submission the information had to be complete and accurate and the information available for claimant to submit billing is only as good as the information input by the MCOs and MS providers. Claimant performed all the research by client, not by month. Ma gave monthly reminders to staff, including claimant, about timely submission of files for billing. Claimant was unaware 56 files for June 2016, had not been uploaded into Vertex. MCOs allow 180 days from service to billing submission. If bills are not submitted within that time, billing payment is usually denied. As claimant researched billing questions in October and November, she watched for updated Excel spreadsheets in order to move forward in the process but it "got to be a mess." In January 2017, claimant pointed out to Ma issues with duplicate files in Vertex and asked they be reuploaded. She told Ma and Erb that all billing files for 2016, had been downloaded. An audit began in February 2017. The 56 files in question were uploaded for billing on March 31, 2017. The system does not provide information about who uploads files.

The employer's annual performance appraisal of claimant on May 21, 2017, noted "[t]he Medicaid privatization makes [her] work unexpectedly devastating," and "[t]he complexity of new MCO billing makes it difficult (sic) for Lynetta to maintain an accurate aging report. She does not have directions to follow." (Claimant's Exhibit A p. 2) In that appraisal the employer noted "over 100K+ overdue invoices for Apr to Jun 2016." Further down on the same page the employer stated, "The past year the program billing has been very challenging. The inefficiencies of the Vertex billing system makes the work more demanding. Lynetta works hard with Vertex and MS team to streamline our billing process to adapt to the many changes." "She follows and outdated accounting procedure manual and some of the methods need to be changed to address the new billing process." (Claimant's Exhibit A p. 3) The employer also recognized her [w]ork with Vertex to streamline the billing process with endless testing." (Claimant's Exhibit A p. 4) On her Annual Review Team Member Feedback Form, claimant noted frustrations including "[r]umors about trying to drive me out of [Goodwill], a "lack of clear goals and expectations of day to day (sic) priorities," and desired "to be comfortable to ask management . . . questions without the fear of getting in trouble." She specifically noted not feeling valued and since April 2016, got the impression management does not trust her. (Claimant's Exhibit B p. 1)

In early May 2017, the employer prohibited claimant from communicating from MS providers or MCOs about questions that would allow her to complete her work. (Administrative Record.) On May 22, 2017, the employer first asked claimant about billing data denials on April 3, 2017, and MCO billing denial on April 10, 2017, for services performed in June 2016. She researched and told Ma she could not find that the vendors ever uploaded the files for June 2016, on Vertex in July 2016. Ma told her to keep looking. During this period, Erb and Ma also assigned a 23,000-line report to claimant for research. Some documents were 120 pages in length that required multiple corrections. On June 2, 2017, claimant told Ma she could not find original files in system and wondered if diagnostic codes were incorrect because if the vendor inputs incorrect information it may not generate a file. Had the Vertex system created files from MCO or service provider uploads, claimant would have downloaded them for billing. Vertex confirmed the file was never created and the files were not in the area where the system stores files. Claimant had problems in August and September 2016, with Vertex files that were not created and no error codes appeared because diagnostic codes were left out of the system. (Testimony and Administrative Record.) Erb suspended claimant without pay pending investigation.

After claimant confided her frustration to payroll and benefits manager Janette Frey in August about Erb and Ma's intimidation, bullying and micromanagement interrupting her work flow, she found out Frey and Erb are close friends. Ma counseled her in writing on August 30, 2016, about past-due account collection and unbilled SDRs but noted "The past year program billing

has been very challenging. The inefficiencies of the Vertex billing system makes the work more demanding.” In that review she replied when the employment began she was told her job required two people, corrections to EOBs were up to 130 pages long, and she spent an inordinate amount of time to obtain complete and correct records from MS providers before she could bill. (Administrative Record.)

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(2)a provides:

Causes for disqualification.

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. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); accord *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000).

Misconduct “must be substantial” to justify the denial of unemployment benefits. *Lee*, 616 N.W.2d at 665 (citation omitted). “Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of benefits.” *Id.* (citation omitted). ...the definition of misconduct requires more than a “disregard” it requires a “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.” Iowa Admin. Code r. 871–24.32(1)(a) (emphasis added).

Whether an employee violated an employer's policies is a different issue from whether the employee is disqualified for misconduct for purposes of unemployment insurance benefits. See *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000) ("Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of benefits." (Quoting *Reigelsberger*, 500 N.W.2d at 66.)).

The incidents for which claimant was discharged were the result of making unintentional errors or overlooking issues because of the chaotic billing transition, coworkers' and management errors, increase of workload, vendor errors and delays, and were not because of any deliberate conduct, omission or negligence in breach of the employer's interests. No disqualification is imposed.

DECISION:

The June 30, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs