

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY I EDWARDS
Claimant

APPEAL NO. 07A-UI-05879-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

OC: 05/20/07 R: 02
Claimant: Respondent (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Mercy Hospital (employer) appealed a representative's June 6, 2007 (reference 01) decision that concluded Tammy I. Edwards (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 28, 2007. The claimant participated in the hearing. Patti Steelman, Jeri Babb, and Linda Bell appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 18, 1999. The claimant worked as an ED technician.

In July 2004, the claimant's supervisor talked to the claimant about drawing blood from an IV site. The claimant knew she was not allowed to do this and had not drawn blood from an IV site. The employer reminded the claimant then that her job did not allow her to do anything with IVs.

The claimant understood her job was in jeopardy when she received a written warning on February 3, 2007. The February 3 warning informed the claimant she had practiced outside her job duty when she talked to a doctor about a patient's pain instead of allowing time for the patient's nurse to talk to the doctor. As a result of the claimant's actions, the patient ended up with a double dose of pain medication because the patient's assigned nurse had not recorded pain medication that had already been given to the patient. The claimant understood the next time she performed her job outside her job duty, the employer would suspend her.

On May 6, 2007, family members of a patient asked the claimant for assistance because there was blood on the bed sheets and IV fluid was leaking out onto the bed. The claimant looked for a nurse to assist her with this situation. When the claimant could not find anyone, she tried to make the patient comfortable. Even though the claimant knew she was not allowed to do anything with IVs,

even flushing an IV, she put a flush on the IV. The claimant was positive the IV was not infiltrated. When a nurse arrived, another IV had to be started.

On May 17, 2007, the employer discharged the claimant for the May 6 incident when she again practiced outside her job description. The situation with the patient was not a life-threatening situation and the claimant could have easily waited for nurse to examine the IV situation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew and understood her job was in jeopardy when she received a written warning on February 3, 2007, for practicing outside her job duty. The claimant also understood her job did not allow her to do anything with IVs. On May 6, the claimant wanted to make a patient comfortable. The claimant flushed the patient's IV when she knew she was not allowed to do this. Even though the claimant intentionally performed a procedure she was not allowed to do, she did not harm the patient. The claimant reasoned that the patient's comfort was more important than doing a procedure that was outside her job description. Even though the claimant did not intend to harm any patient, she still performed a procedure she knew she was not allowed to do. While the May 6 patient was not harmed, the claimant's actions in knowingly performing functions outside her job amount to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The employer discharged the claimant for reasons constituting work-connected misconduct. As of May 20, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's June 6, 2007 decision (reference 01) is reversed. The employer discharged the claimant for reasons amounting to work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 20, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw