

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AMY L O'TOOL
Claimant

APPEAL NO. 14A-UI-11965-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INDIANOLA IA ASSISTED LIVING
Employer

OC: 10/26/14
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 17, 2014, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on December 9, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Randall Schueller, attorney at law. Jenny Knust participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a universal worker for the employer from December 13, 2012, to October 29, 2014. She was informed and understood that under the employer's work rules, she could be discharged for repeated medication errors.

The claimant received a final written warning on October 22, 2014, for making several medication errors. The errors included not giving a medication, giving a medication outside the doctor's parameters, not reporting and recording a resident's low blood sugar, not reporting and recording blood pressure readings, and not consulting with a nurse when reading were outside doctor's orders. She was informed that she would be terminated if she continued to make medication errors.

On October 27, the claimant again made several medication errors. The first issue was she failed to record a blood pressure reading as required by doctor's orders. The second issue was a failure to take a resident's pulse as required by doctor's orders. The third issue was failing to administer a medication at the scheduled time as required by doctor's orders.

As a result of the repeated negligence after being warned, the employer discharged the claimant on October 29, 2014.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful misconduct has been proven in this case. The law, however, disqualifies a claimant for repeated negligence as well. I conclude that the claimant's repeated negligence on October 27, 2014, after she had been previously warned five days before for similar conduct was carelessness or negligence of such degree of recurrence as to manifest culpability equal to willful misconduct since it involved a failure to follow doctor's orders and was substantial disregard of the employer's interest in maintaining the health of the residents.

DECISION:

The unemployment insurance decision dated November 17, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs