

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIE K LEE
Claimant

AVERA HOLY FAMILY HOSPITAL
Employer

APPEAL NO. 14A-UI-10929-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/28/14
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Julie Lee (claimant) appealed an unemployment insurance decision dated October 17, 2014 (reference 01) which held that she was not eligible for unemployment insurance benefits because she was discharged from Avera Holy Family Hospital (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 10, 2014. The claimant participated in the hearing. The employer participated through Janette Jensen, Human Resources Manager, and Michael Hanson, Lab Manager. Employer's Exhibits One through Three were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time medical lab technician from November 23, 2010 through September 29, 2014 when she was discharged for misuse of company property, violation of company policy, and unprofessional conduct. The employer follows the Avera Standards for Service Excellence and expects its employees to demonstrate compassion, hospitality, and stewardship. The employer's workplace romance policy defines a romantic relationship as one in which an average individual could perceive there is an emotional or romantic essence to it, and may or may not have a sexual nature to it. The employer discourages personnel from engaging in romantic or sexual relationships with coworkers due to resulting problems within the workplace.

The employer has a sleep room for lab employees who are on call. The claimant received a warning in 2011 for using that sleep room as her own "sleep-it-off" room after she had consumed alcohol. Lab Manager Michael Hanson warned her not to use that room as if it were her own and to obtain prior approval before using it. The claimant had asked to use it and was given permission to do so when it was work-related.

The claimant completed her shift on September 23, 2014 at 9:00 p.m. and left the building. A coworker entered the sleep room at 3:00 a.m. on September 24, 2014 and found the claimant and a male employee in there without a shirt. The claimant was not on call that night and the room was not being used for work purposes.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on September 29, 2014, for misuse of company property, violation of company policy and unprofessional conduct. She had been previously warned about improper use of the sleep room but disregarded the warning for her own personal reasons. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated October 17, 2014 (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/can