

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAYLA DORSETT

Claimant

APPEAL NO: 14A-UI-03889-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

HANDICAPPED DEVELOPMENT CENTER

Employer

OC: 02/23/14

Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 26, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 1, 2014. The claimant participated in the hearing. Dianna Hamm Assistant Program Director, participated in the hearing on behalf of the employer. Employer's Exhibits One through Eleven and Claimant's Exhibit A were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time residential counselor for Handicapped Development Center from August 19, 2010 to February 25, 2014. She was discharged after she received eight notices of disciplinary action, including four suspensions, and failed to turn in required paperwork on time.

The employer requires paperwork to be turned in every Monday because the Iowa Administrative Code and Medicaid require it, the employer cannot receive payment from Medicaid until the paperwork is submitted, and it can be fined by Medicaid if the paperwork is not up to date because Medicaid funds the programs and conducts audits of the program and paperwork.

On March 19, 2013, the claimant received a third notice of disciplinary action for failing to attend paperwork training which was scheduled for the claimant because she was having problems with her paperwork (Employer's Exhibit Three).

On July 24, 2013, the claimant received a fifth notice of disciplinary action for failing to turn her paperwork in from May 2013 (Employer's Exhibit Five). The claimant had submitted some of the required paperwork but much of that had to be sent back to her for corrections. The employer notified her July 10, 2013, she had until July 19, 2013, to complete the paperwork but

she failed to complete it by that date (Employer's Exhibit Five). She was then placed on suspension until completing the paperwork and because of repeated violations of the workplace rules and Medicaid requirements (Employer's Exhibit Five).

On February 7, 2014, the claimant received a two-day suspension for failing to submit documentation from shifts since January 15, 2014 (Employer's Exhibit Eight). Additionally, the claimant was notified that because of repeated issues with submitting her documentation in a timely manner, she needed to submit her documentation by noon February 24, 2014 (Employer's Exhibit Eight). Additionally, the claimant was told she would no longer be contacted by her supervisor and reminded to turn in her documentation (Employer's Exhibit Eight). The claimant was informed that further problems with the submission of her paperwork would result in immediate termination (Employer's Exhibit Eight).

On February 25, 2014, the employer was notified the claimant had not submitted her paperwork from February 18, 21, 22 and 23, 2014, by noon on February 24, 2014 (Employer's Exhibit Nine). The employer considered that situation and the claimant's most recent warning and suspension when she was told if she did not comply with the paperwork requirements her employment would be terminated, as well as the fact she received five other warnings since March 21, 2011, and discharged the claimant (Employer's Exhibits One, Two, Four, Six, Seven and Eight).

The claimant testified she was too busy the last weekend she worked to complete her paperwork requirements.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's failure to timely submit her required paperwork was not an isolated incident but an ongoing issue and rather than admit she made mistakes, the claimant blames the paperwork requirements, which are mandated by Medicaid, and stated she did not have enough time to fulfill her paperwork responsibilities. Another employee, who was at the house when the claimant was not, was able to complete her paperwork as were all other employees, with minor, rare, exceptions. Whether due to failure to organize or prioritize the importance of the paperwork, substituting her judgment for that of the employer or Medicaid regarding the necessity for the timely submission of the paperwork, or because she was busy, the claimant had not demonstrated that her failure to properly submit her completed paperwork when due was the fault of the employer. While the claimant questioned the importance of the deadlines for the paperwork, the employer could not receive payment until it had submitted the required paperwork and received its funding and could be audited by Medicaid, and it was not the claimant's place to attempt to substitute her judgment for that of the employer. Additionally, the claimant had six warnings for other violations, some of which were also repeat violations.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The March 26, 2014, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css