

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORAH J KRUEGER
Claimant

APPEAL NO. 09A-UI-02634-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRINNELL REGIONAL MEDICAL CENTER
Employer

OC: 01/18/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 13, 2007, reference 01, that concluded she had been discharged for work-connected misconduct. A telephone hearing was held on March 9, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Corey Walker. Helen Adams participated in the hearing on behalf of the employer with witnesses, Deb Nowachek, Kim Rutledge, and Suzanne Cooner. Exhibits One through Six were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from June 19, 1975, to January 6, 2009. She was promoted to the position of home care aide manager in November 1993. The claimant was informed and understood that under the employer's policies, she was required to notify her supervisor, Kim Rutledge, and the patient's physician if a patient did not receive a home health visit that had been ordered by the physician.

The claimant was counseled on May 30, 2008, that she was not to cancel home health patients without approval from Krueger. On July 10, 2008, the claimant received a desired performance memo from Rutledge that counseled her that she could not cancel home health patients without Rutledge's approval.

During a chart audit done in December 2008, Rutledge discovered several instances in late November and early December 2008 where the services were cancelled for patients, but the claimant did not notify Rutledge and Rutledge did not approve the cancellation. In some instances, the claimant had recorded on the charts that the patients had cancelled the services when in truth she had initiated the calls to the patients indicating there was a shortage of home care aides. If the patients suggested the visits could wait, she listed them as patient

cancellations so she would not have to contact Rutledge. Doctors were not sent notification at the time the visits were cancelled as required by the employer's policies.

From December 15 to 17, 2008, state surveyors conducted a routine inspection. They requested documentation from the claimant that physicians had been notified about visits not made on November 22 and November 28. No documentation was available. The claimant attempted to remedy this after the fact by sending faxes to the doctors on December 16 and 18, 2008, notifying the doctors about the cancelled visits. The surveyor issued a deficiency regarding the lack of documentation of the cancelled visits.

Krueger met with the claimant on December 18, 2008. She informed the claimant that the employer was going to investigate her job performance and she would meet with the claimant after the claimant returned from vacation on January 5, 2009. As part of the investigation, patients were contacted and some reported the claimant had asked them about cancelling a home visit when the claimant had recorded the patient cancelled.

The employer discharged the claimant on January 6, 2009, for cancelling visits without approval from Krueger or notice to physicians and for falsely recording that patients had cancelled a home visit when she in fact had asked the patients about cancelling.

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 section 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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant's violation of the employer's visit cancellation policies was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated February 13, 2007, 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