

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TASHA S RICHARDSON
Claimant

CARE INITIATIVES
Employer

APPEAL NO: 14A-UI-01240-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/14
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 27, 2014, reference 01, that held she was discharged for misconduct on January 6, 2014, and benefits are denied. A telephone hearing was held on March 5, 2014. The claimant participated. Michelle Hawkins, Representative; Linda Grinstad, Administrator; and Brandon Kranovick, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on April 9, 2012, and last worked for the employer as a full-time RN on January 6, 2014. The employer provided claimant with its disciplinary policy.

The DON gave claimant a verbal coaching in May 2013 for some job performance issues. Claimant was issued a verbal warning on August 9, a written warning on October 13, and a final written warning on October 27. The later warning advised claimant she could be terminated for further job performance issues.

The employer discharged claimant on January 6, 2014 and it listed seven job performance issue dates from November 30 through December 28, 2013. Claimant denies that she committed any violation. She denies she inaccurately recorded medication administration.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes employer established claimant was discharged for misconduct on January 6, 2014 for repeated job performance issues.

The employer's testimony on the job performance issues is more credible than claimant's denial. The employer documented dates/times and issued progressive discipline to let claimant know she was failing to perform to the standard required. She was issued a final warning to let her know her job was in jeopardy. The continuing pattern of job performance issues from November 30 through December 28 show an intentional disregard of the employer requirements and constitute job disqualifying misconduct in light of the progressive discipline.

DECISION:

The department decision dated January 27, 2014, reference 01, is affirmed. The claimant was discharged for misconduct on January 6, 2014. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css