

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRIE M BURCH
Claimant

APPEAL NO: 08A-UI-08402-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRINNELL REGIONAL MEDICAL CENTER
Employer

**OC: 08/24/08 R: 02
Claimant: Appellant (1)**

Section 96.5-2 a- Discharge

STATEMENT OF THE CASE:

Sherrie M. Burch (claimant) appealed a representative's September 15, 2008 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Grinnell Regional Medical Center (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 6, 2008. The claimant participated in the hearing. Linda Long, the environmental services manager, participated on the employer's behalf. Deb Nowachek, Vilene Savage, Mark Doll and Dave Ness were present, but did not testify. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 3, 1995. The claimant worked as a full-time housekeeper. Since January 2008, Long has supervised the claimant.

Since Long supervised the claimant, the claimant worked as a floater. While other supervisors may not have required the claimant to carry a pager at all times, Long required the claimant to do this. As a floater, the employer expected the claimant to fill in and work wherever she was needed. For example if a co-worker called and asked for help to clean a clinical area, the claimant was to go to that area and help clean it.

On May 15, 2008, the employer gave the claimant a corrective action plan that was in place for a year. The employer gave the claimant a written warning and the corrective action plan after she did not carry a pager at all times as Long required her to do when she worked as a floater. The action plan informed the claimant that cleaning clinical areas took priority over other job

tasks. The employer also warned the claimant that if she did not follow the action plan her job was in jeopardy.

On July 2, the claimant went off site to complete her inventory on supplies. Although the claimant asserted there was nothing to clean when she left, the employer gave her a written warning that day. The employer understood the claimant asked another employee to handle a page the claimant received so the claimant could check on supplies at another location. (Employer Exhibit Two.) When the claimant received the warning, she did not disagree with the warning. Instead, the claimant told the employer she knew and understood that patient care always came first.

On August 13, the claimant was cleaning a doctor's office with another employee. The claimant had the pager and received a call from a co-worker that she needed help to clean the ICU. The claimant wanted to get the doctor's office finished. The claimant asked her co-worker to contact the employer who had called to let her know you could not come to help her and suggested she call another co-worker. Another employee was contacted and she went to help clean the ICU unit.

After this employee had been contacted, the employee saw Long and told her she was not at break because she had been asked to help clean the ICU even though she was not the floater. After Long received this information, she contacted the claimant on the pager and told her go to ICU and help clean it. The claimant was still cleaning the doctor's office when Long called her. Five minutes later, the claimant went to ICU and saw the two employees cleaning the ICU unit. The claimant noticed the unit was almost done and did not ask if there was anything else to do. She left and went to do her inventory check. The claimant did not know the EER had to be cleaned also.

Again when the employer talked to the claimant about the August 13 page, she acknowledged she should have gone to ICU immediately because patient care was always a priority. On August 22, 2008, the employer discharged the claimant because she failed to follow her May 15 correction plan on July 2 and on August 13, 2008. (Employer Exhibit Two.)

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known her job was in jeopardy if she did not follow the May 15, 2008 corrective action plan. The facts establish the claimant did not like some of the changes the employer implemented after Long became her supervisor. Specifically, the claimant did not believe it was fair that she had to constantly carry a pager with her even though she worked as a floater. As a floater, it was the claimant's job to fill in when someone needed her. Since patient care was her top priority, the claimant acknowledged she should have

immediately gone to ICU instead of indicating another employee should be asked to help clean a unit.

In addition to the corrective action plan, the employer gave the claimant a warning on July 2 for the same kind of situation that occurred on August 13. Since the claimant's job was in jeopardy and she understood that patient care was her top priority, the claimant's failure to go to ICU to help clean a unit the first time she was called to help on August 13 constitutes an intentional and substantial disregard of the employer interests. The employer discharged the claimant for work-connected misconduct. As of August 24, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's September 15, 2008 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 24, 2008. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs