

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUDRA S ROWSON
Claimant

APPEAL NO. 10A-UI-05832-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 03/14/10
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Audra Rowson filed an appeal from a representative's decision dated April 8, 2010, reference 01, which denied benefits based on her separation from Heartland Employment Services (Heartland). After due notice was issued, a hearing was held by telephone on June 7, 2010. Ms. Rowson participated personally. The employer participated by Janelle Thompson, Human Resources Manager, and Zach Johnson, Office Manager.

ISSUE:

At issue in this matter is whether Ms. Rowson was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Rowson was employed by Heartland from November 12, 2008 until March 8, 2010. She was hired to work full time as a registered nurse/case manager. She worked in Illinois and Iowa. Her Iowa license expired on February 12, 2010. She obtained a temporary Illinois license on December 24, 2009.

Ms. Rowson believed she was licensed to practice nursing in Illinois until notified by the employer on or about February 28, 2010 that she was not licensed. She was suspended from work at that time. She took immediate steps to obtain the necessary license and was licensed in Illinois at the time of her discharge on March 8, 2010. She was discharged because of the prior period when she was working without a license.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Rowson was discharged because there was a period of time that

she performed services for the employer but was not licensed to do so. The employer was unable to state the specific period for which she was unlicensed.

The administrative law judge does not believe Ms. Rowson deliberately and intentionally failed to renew her license to practice nursing in Illinois. Because she had applied for an Illinois license on December 24, 2009, she had a good-faith belief that her temporary license was still effective until she received the permanent license. At most, she was negligent in assuming that she had a valid license. Her conduct did not evince a willful or wanton disregard of the employer's standards or interests. An isolated instance of simple negligence is not considered misconduct within the meaning of the law. See 871 IAC 24.32(1).

It was well within the employer's rights to discharge Ms. Rowson. However, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, it is concluded that disqualifying misconduct has not been established and benefits are allowed.

DECISION:

The representative's decision dated April 8, 2010, reference 01, is hereby reversed. Ms. Rowson was discharged by Heartland but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs