

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHERYLYNN K FERRARI**  
Claimant

**APPEAL NO. 24A-UI-00795-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA JEWISH SENIOR LIFE CENTER**  
Employer

**OC: 12/24/23  
Claimant: Appellant (1)**

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Iowa Code Section 96.5(2)(a) & (d) – Discharge for Misconduct

**STATEMENT OF THE CASE:**

On January 20, 2024, Sharlynn Ferrari (claimant) filed a timely appeal from the January 12, 2024 (reference 01) decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant was discharged on December 26, 2023 for conduct not in the best interest of the employer. After due notice was issued, a hearing was commenced on February 8, 2024. The hearing continued on February 28, 2024 and concluded on February 29, 2024. The claimant participated. Attorney Clark Butler represented the employer and presented testimony through Angela Meyer and Ellen Clouse. Exhibits 1 through 4, 6, AND A through E were received into evidence. Exhibits 5 and F were not admitted.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with the employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Sharlynn Ferrari (claimant) was employed by Iowa Jewish Senior Life Center as the full-time Admissions Coordinator from 2016 until December 26, 2023, when the employer discharged her from the employment. During the last two years of the employment, Angela Meyer, Executive Director, was the claimant's immediate supervisor.

The incident the employer cites as the primary trigger for the discharge occurred on December 15, 2023, when the claimant, as the designated scribe, led a daily staff meeting. Ms. Meyer was away from the workplace at the time. During the meeting, the claimant raised concern with the director of nursing about not being informed of a resident being moved into a vacant room without notice to the claimant, who had been contacting waitlisted prospective residents about the room. During the meeting, the claimant acknowledged that the nursing staff's plans for the room would take precedence over the claimant's plan to fill the room with a prospective resident. However, the claimant elected to use an aggressive, rude tone towards the director of nursing and others. Several participants in the meeting found the claimant's

aggressive tone discomfoting. The tone of the meeting led to an early adjournment and prompted one of the participants to complain to Ms. Meyer. Ms. Meyer came to the workplace, though she was scheduled off for the day. Ms. Meyer interviewed several participants but not the claimant.

The employer cites additional conduct as factors in the discharge decision. On December 18, 2023, Ms. Meyer directed the claimant to review with the recently hired social worker that portion of the claimant's duties the social worker would need to fulfill during the claimant's impending vacation absence. Ms. Meyer anticipated the interaction would take a number of hours to satisfactorily convey necessary information. The claimant decided to cut the meeting short and moved on to other tasks. The recently hired social worker had earlier raised concern with Ms. Meyer regarding the claimant's refusal to convey necessary information in connection with a transfer of social work duties from the claimant to the social worker.

The employer considered a concern raised by a board member on December 11, 2023, that the claimant had told the family of a prospective resident that their application would need to go before the board for review, when this was not standard admission procedure.

The employer considered a December 17, 2023 complaint from the family of a prospective member, that the claimant had cited the prospective resident's status as a Medicaid recipient to rudely and bluntly state that the prospective resident would not be a good fit for the long-term care facility.

In April 2023, the employer verbally counseled the claimant after the claimant aggressively challenged Ms. Meyer during a staff meeting about the employer's decision to allow a recently hired employee to continue in the employment despite attendance issues. The claimant had no supervisory authority, including no supervisory authority over the new employee.

The incidents the employer took into consideration when making the discharge decision were part of a pattern of rude, aggressive and/or dismissive conduct on the part of the claimant. The pattern of conduct included periodically yelling at Ms. Meyer in a challenge to her authority.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(2)(a) and (d) provides as follows:

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 disqualification shall continue 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.

...

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is 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. Misconduct by an individual includes but is not limited to all of the following:

- ...
- (2) Knowing violation of a reasonable and uniformly enforced rule of an employer.
- ...

See also Iowa Admin. Code r. 871-24.32(1)(a) (repeating the text of the statute).

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

While past acts and warnings can be used to determine the magnitude of the current act of misconduct, a discharge for misconduct cannot be based on such past act(s). The termination of employment must be based on a current act. See 871 IAC 24.32(8). In determining whether the conduct that prompted the discharge constituted a “current act,” the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*, 426 N.W.2d 659, 662 (Iowa App. 1988).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See Iowa Administrative Code rule 87124.32(4).

An employer has the right to expect decency and civility from its employees. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995).

Continued failure to follow reasonable instructions constitutes misconduct. See *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employee’s failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. See *Woods v. Iowa Department of Job Service*, 327 N.W.2d 768, 771 (Iowa 1982). The administrative law judge must analyze situations involving alleged insubordination by evaluating the reasonableness of the employer’s request in light of the circumstances, along with the worker’s reason for non-compliance. See *Endicott v. Iowa Department of Job Service*, 367 N.W.2d 300 (Iowa Ct. App. 1985).

The weight of the evidence in the record establishes a discharge for misconduct in connection with the employment. The evidence establishes a pattern of aggressive, rude and dismissive conduct on the part of the claimant that created a hostile work environment for her coworkers. The claimant’s conduct included rude, aggressive behavior at multiple staff meetings and during multiple interactions with Ms. Meyer and coworkers. The evidence further establishes similar conduct directed at the family of the Medicaid eligible prospective resident. The evidence indicates the claimant knowingly and intentionally misled another family about the application process to create an extra non-existent screening step. The pattern of conduct continued despite a warning in April 2023. The pattern of conduct was sufficient to indicate an intentional and substantial disregard of the employer’s interests in a civil, welcoming and cooperative work environment. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant’s weekly benefit amount. The

claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The January 12, 2024 (reference 01) decision is AFFIRMED. The claimant was discharged on December 26, 2023 for misconduct in connection with the employment. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.



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James E. Timberland  
Administrative Law Judge

March 5, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.