

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA JOHNSON
Claimant

APPEAL NO. 08A-UI-02624-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE HEALTH SERVICES INC
Employer

**OC: 02/20/08 R: 02
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Linda Johnson (claimant) appealed an unemployment insurance decision dated March 11, 2008, reference 02, which held that she was not eligible for unemployment insurance benefits because she was discharged from Hawkeye Health Services, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 1, 2008. The claimant participated in the hearing. The employer participated through Brenda Kaden, Human Resources Manager. 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:

The issue is whether the employer discharged the claimant for work-related misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a part-time licensed practical nurse from April 11, 2000 through February 19, 2008. Her nursing license was scheduled to expire on February 15, 2008, and it is a requirement of her employment. The claimant's supervisor reminded the claimant she needed to provide an updated license to continue employment. The employer heard nothing more from the claimant and sent her a termination letter on February 19, 2008.

The claimant testified at the hearing that she had applied for her license and it was pending at the time of termination. However, she admitted she did not inform the employer of this fact. The employer testified that the claimant would not have been terminated if she had made them aware of this information.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has

discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged for failing to provide the employer with an updated nursing license. She claims she was fired for no reason, since her license was pending, but she also admitted that she never told the employer this information because of some personality issues going on. The claimant contends she has provided years of good service to the employer and they were looking for a way to fire her. However, her years of service are not in question, and all she had to do was to inform the employer she was working on getting her license renewed. Since she refused to give them this information, the employer had no other choice but to discharge her. The claimant's failure to provide an updated nursing license or to contact the employer to advise she was working on getting it renewed, shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated March 11, 2008, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits, because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw