

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUE K MC CUNE**

Claimant

**APPEAL NO: 14A-UI-02008-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SIOUXLAND MENTAL HEALTH SERV INC**

Employer

**OC: 01/26/14**

**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's February 17, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the March 13 hearing. Jill Knuth and Sheila Martin appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in July 2013. The employer hired her to work as a full-time administrative assistant. Martin supervised the claimant.

During her employment, the claimant received a warning in September 2014 after she looked at a relative's record. The claimant's job did not allow her to access this client's records. In mid-October 2013, the claimant received a written warning for inappropriate Internet usage at work. The claimant and an employee, who worked a long time for the employer, did not get along. In mid-October, the employer talked or counseled the claimant about using a professional tone of voice at work. Co-workers complained that the claimant interrupted them. Some employees did not appreciate the tone of voice she used when talking to them. Some employees felt the way the claimant talked to them was demeaning. On January 17, 2014, the claimant received a final written warning for failing to professionally perform her duties. The claimant received this warning for failing to professionally interact with the long-time employee.

On January 30, 2014, the claimant made a comment about a client to herself. The client was not present and the claimant did not say the comment to anyone. The claimant made the statement in her office in the receptionist area in the lobby. Two co-workers overheard the claimant say that a particular client was a drama bitch. The claimant acknowledged she made the comment.

On February 3, 2014, the employer discharged the claimant for making a derogatory comment about a client who has a mental illness. The employee handbook informs employees they are to act professionally at all times, they are to refrain from being rude, offensive, and they are not to ridicule anyone. Instead, the employer requires employees to be courteous and helpful.

#### **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 § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

After the claimant received her final written warning in mid-January 2014 she knew or should have known her job was in jeopardy if she received any more warnings or failed to perform her job professionally. The claimant's comment to herself was rude and belittled one of the employer's clients. It was fortunate that no one except co-workers overheard her remark. The fact she made the comment out loud, even though it was only to herself, shows a substantial disregard of the standard of behavior the employer has a right to expect from an employee, especially an employee who works in the lobby at the reception desk. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of January 26, 2014, the claimant is not qualified to receive benefits.

#### **DECISION:**

The representative's February 17, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of January 26, 2014, the claimant is disqualified from receiving unemployment insurance benefits. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs