

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JENNIFER L SCOTT**  
Claimant

**APPEAL NO. 14A-UI-11123-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CLAIR FAMILY DENTAL COPORATION**  
Employer

**OC: 09/14/14**  
**Claimant: Appellant (1)**

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Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 20, 2014, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on November 14, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Isaac Clair participated in the hearing on behalf of the employer with a witness, Cheri Kelly.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked part time for the employer as a dental hygienist from June 2013 to September 12, 2014. Isaac Clair, D.D.S. was the claimant's supervisor.

The employer discharged the claimant on September 12, 2014 for repeated negligence in carrying out her job duties. The final incident was on September 10. The claimant was assigned to do a routine cleaning of a patient's teeth but left noticeable calculus on the teeth. When Clair questioned the claimant about this, she said that she knew she had missed that area but got distracted and did not go back to finish the cleaning.

Clair had warned the claimant about rushing through on cleaning duties in January 2014 and instructed her to slow down and do a thorough job. Her performance improved initially, but then Clair started receiving complaints again after a couple of months about problems with the claimant not meeting standard of care in her cleanings of patient's teeth. He did not receive similar complaints about other hygienists in the office.

The claimant was also discharged for recurrent missing x-rays of patients or failing to bill out x-rays that were taken. She also failed to tag the dentist who treated the particular patient in the computer system. The claimant was not the only one who made these mistakes but she had substantially more errors than other hygienists.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The evidence does not show willful misconduct, but does show a repeated negligence of such a degree of recurrence that it equals willful misconduct in culpability since it involved a failure to meet standard of care that the employer had the right to expect of the claimant. She was warned about this, her performance improved, but then the negligent conduct continued. Work-connected misconduct as defined by the unemployment insurance law has been established.

**DECISION:**

The unemployment insurance decision dated October 20, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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