

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CONSTANCE M CURTIS**

Claimant

**APPEAL 20A-UI-10166-BH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTENE MANAGEMENT COMPANY LLC**

Employer

**OC: 05/31/20**

**Claimant: Appellant (2)**

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Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause

Iowa Code section 96.5(2)(a) – Discharge for Misconduct

Iowa Administrative Code rule 871-24.32(1)(a) – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Constance M. Curtis appealed the August 14, 2020 (reference 01) unemployment insurance decision that denied benefits. The agency properly notified the parties of the hearing. The undersigned presided over a telephone hearing on October 7, 2020. Curtis participated personally and testified. Centene Management Company, LLC (Centene) did not participate. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

Was Curtis's separation from employment with Centene a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

Did Centene discharge Curtis for job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Centene hired Curtis on June 3, 2019. Curtis worked full time as a claims liaison. Centene discharged Curtis on April 15, 2020.

Curtis had health issues that caused her to go on leave under the federal Family and Medical Leave Act of 1993 (FMLA) and the federal Americans with Disabilities Act (ADA) as well as the Iowa Civil Rights Act of 1965 (ICRA). Centene contracts with Lincoln Financial to administer its reasonable accommodations under the ADA (and presumably the ICRA). ADA program administrator Sheridan Walker worked with Curtis regarding her leave of absence.

Curtis returned to work and was working from home on April 15, 2020. She was experiencing significant pain due to her health issues. Curtis sent a text message to her immediate supervisor, asking for the remainder of the day off. Her supervisor approved. Centene sent Curtis a letter dated April 15, 2020, informing her that she was discharged for requesting additional time off for her serious health condition effective April 17, 2020.

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

For the reasons that follow, the administrative law judge concludes Centene discharged Curtis from employment for no disqualifying reason.

In appeals such as this one, the issue is not whether the employer made a correct decision in discharging claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

Under Iowa Code section 96.5(2)(a), an individual is disqualified for benefits if the employer discharges the individual for misconduct in connection with the individual's employment. The statute does not define "misconduct." But Iowa Administrative Code rule 871-24.32(1)(a) does:

"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 Iowa Supreme Court has ruled this definition accurately reflects the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Administrative Code rule 871-24.32(4) states:

The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. 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. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Under Iowa Administrative Code rule 871-24.32(8),

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Further, poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

Requesting a leave of absence due to symptoms caused by a serious health condition is not an act of misconduct under Iowa Code section 96.5(2)(a) and rule 871-24.32(1)(a). Curtis's request for time off is therefore an act of misconduct and does not disqualify her from benefits. Further, her absences were timely reported to Centene and for a reasonable basis. They are therefore excused under Iowa law and do not constitute misconduct. For these reasons, the evidence establishes Centene discharged Curtis for no disqualifying reason. Curtis is entitled to benefits from May 4, 2020, moving forward, provided she is otherwise eligible under the law.

**DECISION:**

The August 14, 2020 (reference 01) unemployment insurance decision is reversed and remanded. Centene discharged Curtis from employment for no disqualifying reason. Curtis is entitled to benefits, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid during this time period.



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Ben Humphrey  
Administrative Law Judge

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October 9, 2020  
Decision Dated and Mailed

bh/sam