

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JORDON NEUMAN MOZGA**

Claimant

**APPEAL NO: 11A-UI-04475-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA HOSPITAL CORP**

Employer

**OC: 02-27-11**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 24, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 2, 2011. The claimant participated in the hearing. Christy Niehaus, Human Resources Business Partner and Kim Vonahsin, Manager of Client Services, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time lab support technician for Central Iowa Hospital Corporation from May 26, 2010 to February 28, 2011. On February 24, 2011, the employer received a complaint from some of the claimant's co-workers that she was accessing her boyfriend's lab results through the employer's computer system without authorization. The employer met with the claimant and she denied accessing her boyfriend's test results. Supervisor Sara Taylor asked the claimant if she would provide her boyfriend's name and date of birth and the claimant agreed but provided the employer with an incorrect last name for her boyfriend. Kim Vonahsin, Manager of Client Services, requested an audit. There were no hits on the name the claimant provided for her boyfriend but were hits on his date of birth and he lived in Norwalk, Iowa, as does the claimant. The audit showed the claimant used her lab number to gain access to his account June 16, June 21, July 17, August 6, October 5 and five times October 15, 2010. The claimant had been placed on HIPAA probation and a final written warning November 4, 2010, after the employer learned she accessed a co-worker's lab records 11 times October 15, 2010, when that employee was in the emergency room. After learning of the claimant's actions with regard to her boyfriend's lab records and conducting the investigation the employer terminated the claimant's employment February 28, 2011, for HIPAA violations, being dishonest about her boyfriend's name, and for saying to her co-workers that "if (she) ever found out who turned (her) in (she) would kick (her) ass," after her initial meeting with the employer February 24, 2011. The claimant admitted she knew her actions were wrong and a violation of HIPPA laws but accessed the information anyway.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 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 was told the claimant was accessing her boyfriend's lab records. After confronting her about the situation the claimant was not honest in stating her boyfriend's name but did provide the correct birth date so the employer was able to track her actions through her lab number. It found that she checked his lab results a total of 10 times in June, July, August and October 2010. The claimant was on probation for a HIPAA violation for accessing a co-worker's lab results 11 times October 15, 2010. While the claimant's actions regarding her boyfriend were not a current act, the employer acted on the information as soon as it was made aware of the situation February 24, 2011, and conducted its investigation and terminated the claimant's employment four days later on February 28, 2011. If the employer did not have any reason to question or investigate the claimant's actions regarding her boyfriend until February 24, 2011, and responded within four days, that is considered a current act. The claimant acknowledged she knew her actions were wrong and a HIPAA violation when she accessed the records of her boyfriend and co-worker. The employer considered the claimant's actions with regard to her boyfriend's lab records, the fact that she was not honest when confronted about the situation and that she was on probation for a HIPAA violation in reaching

the decision to terminate the claimant's employment. The administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

**DECISION:**

The March 24, 2011, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css