

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHELLE K ROBNETT
Claimant

ST AMBROSE UNIVERSITY
Employer

APPEAL 19A-UI-01011-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/06/19
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 31, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged from employment for violation of a known company rule. The parties were properly notified of the hearing. A telephonic hearing was held on February 27, 2019. The claimant, Michelle K. Robnett, participated and was represented by Heather Carlson, Attorney at Law. The employer, St. Ambrose University, participated through Kathleen Andresen, Department Chair of Department of Nursing; Sandra Cassady, Dean of College of Health and Human Services and Vice President for Strategic Initiatives; and Audrey Blair, Director of Human Resources; and was represented by Judith Hermann, Attorney at Law. Claimant's Exhibits A through D and Employer's Exhibit 1 through 12 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as an Assistant Professor, from August 15, 2015, until January 9, 2019, when she was discharged for failing to maintain an active nursing license. Claimant's nursing license expired on August 16, 2018. She mistakenly believed that her nursing license was not set to expire until the summer of 2019. This mistaken belief was not based on any misinformation from the Iowa Board of Nursing. Claimant knew it was her responsibility as an employee to maintain an active nursing license. Claimant does not dispute that she taught the Fall 2018 semester without an active nursing license.

The employer learned that claimant did not have an active nursing license on or about January 2, 2019, when it was preparing a routine report to submit to the Iowa Board of Nursing. Andresen accessed the Nursys database to obtain current nursing license expiration dates for all faculty members and found that claimant's license had expired in August. Andresen reached out to claimant, who confirmed that her nursing license was not active. At that point, Andresen

reported the issue to Cassidy, who in turn contacted the Chief Academic Officer and the Human Resources department. The employer determined it must discharge claimant for breaching her employment contract. As an Assistant Professor in the Department of Nursing, claimant was required to maintain an active nursing license in Iowa. (Exhibit 7, page 1) This requirement is also stated in the Department of Nursing Faculty Handbook. (Exhibit 8) Additionally, the employer is accredited by CCNE, which requires nurse educators to be licensed, and the Iowa Board of Nursing requires faculty members who teach nursing to maintain active nursing licenses. The employer explained that claimant's failure to maintain an active nursing license while teaching poses potential harm to students and potential liability to the university.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for disqualifying, job-related misconduct. Benefits are withheld.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *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).

The maintenance of a professional license is the employee’s responsibility without an agreement to the contrary. The employer has a legal obligation to abide by state licensing and safety statutes and regulations and not allow unlicensed individuals to teach nursing at its institution. Claimant was fully aware that it was her responsibility to maintain her nursing license, and she was fully aware that maintaining this license was a condition of her employment. Claimant’s failure to maintain a valid nursing license as a known condition of the employment was misconduct sufficient to warrant a denial of benefits.

DECISION:

The January 31, 2019, (reference 01) unemployment insurance decision is affirmed. 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn