

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY L HECKERT
Claimant

APPEAL NO. 13A-UI-14062-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

OC: 11/24/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Genesis Health System (employer) appealed a representative's December 13, 2013, decision (reference 01) that concluded Becky Heckert (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 22, 2014. The claimant participated personally. The employer participated by Brandi Tiesman, Director of Human Resources, and Patti Said, Interim Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 6, 1993, as a part-time registered nurse. The claimant requested and was granted a medical leave of absence from April 1 through September 1, 2013. The employer offered the claimant work during the claimant's medical leave but the claimant was too tired, sick, and disoriented to consider the offer properly. The claimant was unable to return to work on September 1, 2013. The employer separated the claimant from employment on September 1, 2013. She was able to return to work without restrictions on September 18, 2013.

The claimant filed for unemployment insurance benefits with an effective date of November 24, 2013. She received \$3,264.00 in benefits after the separation from employment. The employer did not participate at the fact-finding interview on December 12, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

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.

Issues surrounding separations of employment for medical reasons and subsequent entitlement to unemployment insurance benefits are among the most challenging in unemployment insurance law. The evidence in this case showed that the claimant was unable to return to work until shortly after she had exhausted her medical leave. By the time her doctor permitted her to return to full-time work on September 18, 2013, she had already been terminated by the employer. The claimant was separated from her employment by the employer and the employer has not shown misconduct. This is a non-disqualifying discharge and the claimant is eligible for unemployment insurance benefits provided she meets all other eligibility requirements.

DECISION:

The representative's December 13, 2013, decision (reference 01) is affirmed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs