

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEANNA K VAUBLE
Claimant

APPEAL NO. 10A-UI-09137-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ST ANTHONY REGIONAL HOSPITAL
Employer

OC: 05/09/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Deanna Vauble, filed an appeal from a decision dated June 16, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 12, 2010. The claimant participated on her own behalf and was represented by Iowa Legal Aid in the person of Andrea Buckley. The employer, St. Anthony's, participated by Human Resources Assistant Darcy Dailey, Nursing Home Director Sherry Greteman, and DON Deon Rowedder.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Deanna Vauble was employed by St. Anthony's from March 17, 2010 until May 13, 2010 as a full-time CNA. She received a written warning on October 23, 2009, due to complaints from residents and staff members of her being "negative" and "short" with residents and other staff, and making negative comments about the facility in front of residents. She posted a letter of apology in the break room after receiving the warning and said she would not allow her personal problems to interfere with her work in the future.

On November 17, 2009, the claimant was suspended for three days due to a complaint of rough handling of residents. A family member had called Director Sherry Greteman and said Ms. Vauble had been so rough with a resident the family member was going to call the state authorities about it and did not want Ms. Vauble to care for the resident in the future. The employer interviewed the resident, who confirmed the claimant had been so rough drying her off it caused bleeding.

For a while the claimant's conduct improved, but in March 2010 the complaints began again. Ms. Greteman observed an incident in a resident's room about that time where the claimant was acting as if "she did not want to be there." The director offered her EAB, as it was rumored the claimant might be having some personal problems. The claimant refused.

On May 11, 2010, two staff members came to Ms. Greteman and Supervisor Deon Rowedder about the claimant's conduct. One staff member said she was no longer willing to work with Ms. Vauble because of the rough and rude way she treated residents. The employer investigated and discovered the claimant had refused a resident's request to help her put on a hair net. This is a violation of the residents' bill of rights. Other general complaints about rudeness, roughness, and negativity came to light. She was discharged by Ms. Greteman and Ms. Rowedder on May 13, 2010.

REASONING AND CONCLUSIONS OF LAW:

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 claimant had been advised her job was in jeopardy as a result of her conduct and treatment of residents. She was capable of performing her job to an acceptable standard, as evidenced by the improvement in her conduct after the suspension in November 2009. But, her conduct deteriorated again after a few months and complaints began to surface again.

The final incident was a refusal to honor a resident's request to have a hair net. There was nothing in the resident's care plan that gave Ms. Vauble authority to refuse that request and, as such, it constituted a violation of the residents' bill of rights. The employer has the obligation to provide good care and professional services to its residents and to treat them with respect, courtesy, and dignity. The claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of June 16, 2010, reference 01, is affirmed. Deanna Vauble is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw