

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA R GIBSON
Claimant

CENTRAL IOWA HOSPITAL CORP
Employer

APPEAL 16A-UI-07044-NM-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/22/16
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 15, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her discharge for violation of a known company rule. The parties were properly notified of the hearing. A telephone hearing was held on July 14, 2016. The claimant Jessica Gibson participated and testified. The employer Central Iowa Hospital Corp. participated through human resource business partner Ashley Pringle. Employer's Exhibits 1 through 3 were received into evidence.

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 as a unit clerk from September 24, 2014, until this employment ended on May 31, 2016, when she was discharged.

On May 16, 2016, a patient in the maternity ward, who was also a coworker of claimant, reported to the employer that she thought claimant might have accessed her medical records. Claimant had received one prior warning regarding accessing private patient information for purposes not directly related to her work. Claimant was advised and understood that further violations would result in termination. An audit was done and found that, approximately one minute before the patient's baby was born, claimant accessed her records for approximately three seconds. The employer testified that, while claimant would need to access the patient's records just after the baby is born, she had no reason to access them prior to the baby's birth. Claimant testified that she saw the patient going into the C-section delivery room, knew the baby was going to be born soon, and accessed the record to get a piece of information she needed to get the baby's chart started. Claimant testified she was just trying to get a head start on the baby's chart because she had a minute and she had done this before without incident. The employer testified this is not the normal procedure, but there are no policies specifically prohibiting it. It was ultimately determined that claimant had accessed private health information without a legitimate business reason for doing so and her employment was terminated.

REASONING AND CONCLUSIONS OF LAW:

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

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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). 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).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to

whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Here, the employer alleged claimant accessed private patient information without a legitimate business reason for doing so. Claimant testified she was accessing the information to get a head start on preparing a chart and that she had done this before. The employer admitted, while this is not the normal procedure, there are no policies specifically prohibiting such a thing. The claimant provided a credible, legitimate business reason for her actions. Accordingly, the conduct for which claimant was discharged was not misconduct. Benefits are allowed.

DECISION:

The June 15, 2016, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/pjs