

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JULIUS J KOEPP**

Claimant

**APPEAL NO. 12A-UI-04525-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ST LUKES METHODIST HOSPITAL**

Employer

**OC: 03/18/12**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated April 18, 2011, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on May 10, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Dennis Winders participated in the hearing on behalf of the employer with witnesses Teresa Saxon and Callie Engelbrecht. Exhibits One through Seven were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time as a radiographer for the employer from January 7, 2008, to March 23, 2012. He was informed and understood that under the employer's work rules, falsification or alteration of hospital records was ground for discipline. The claimant was aware that he did not have any authority to change a physician's order.

On October 7, 2011, the claimant was suspended and placed on a last chance agreement after he X-rayed a family member's foot without authorization and without creating any record of the procedure.

On March 22, 2012, a patient had a doctor's order for a cervical spine X-ray. The radiology technologist, LaRaina Appel, had a question about the order because the patient recently had a lumbar spine fusion, she had a lumbar-spine scan the previous day, and the patient said she had no neck issues. Appel consulted with the claimant and asked him to check with the nurse. The claimant responded that the order should have been for a lumbar spine and wrote an L over the C on the chart. He then entered the requisition into the Misys software system to show that a lumbar spine X-ray was going to be performed on the patient in question. The lumbar X-ray was done without anyone contacting the doctor to find out what she really wanted.

Later that day, a nurse questioned the alteration in the order and the type of X-ray performed on the patient. The director of imaging services, Dennis Winders, conducted an investigation and asked the claimant, Appel, and another employee, Chris Hicks, who was involved with the X-ray, to explain what had happened. The claimant admitted he had entered the requisition for the lumbar X-ray into the system without checking with the doctor to clarify the order but denied altering the order or touching the chart. Appel reported that the claimant had said a lumbar X-ray should be done and altered the order. Hicks reported seeing the claimant and Appel talking about the X-ray and the claimant write something on the chart.

Winders discharged the claimant on March 23, 2012, for changing the physician's order without authorization and for his prior history of discipline.

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

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. The claimant's email minimized his involvement to "offering to change the order in Mysis" to speed up the patient's wait time and overhearing Appel and Hicks talking about what scan should be done. In his testimony, it becomes clear Appel consulted him about what scan to do, which undercuts his evidence. Also, if Hicks was trying to shift the blame on the claimant, why wouldn't she have reported that the claimant had told Appel to do the lumbar X-ray? I find that she truthfully explained what she witnessed, which included the claimant writing on the chart.

The claimant's conduct in altering the order was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. He had been warned for similar dishonesty before. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated April 18, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw