

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**KATHLEEN J BAUMANN  
266 LYNDA DR NW  
CEDAR RAPIDS IA 52405**

**COVENANT MEDICAL CENTER  
c/o PERSONNEL – EMPLOYMENT  
COORDINATOR  
3421 W 9<sup>TH</sup> ST  
WATERLOO IA 50702**

**Appeal Number: 05A-UI-00585-H2T  
OC: 12-05-04 R: 03  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 6, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 1, 2005. The claimant did participate. The employer did participate through Karen Swinton, Employment Coordinator (representative) and Marcia Ehlers, Director of Behavioral Health Services. Employer's Exhibits One and Two were received into the record.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a registered nurse part time beginning October 4, 2004 through December 6, 2004 when she was discharged. On December 5, 2004 at 3:30 pm the claimant

called her ex-husband telling him that his brother was a patient in the detox unit of the hospital. Prior to the claimant making the call, the patient had not given permission under HIPPA regulations, federal regulations or any hospital regulation to release any information about him, including whether he was even a patient of the hospital. The claimant had been trained on patient confidentiality regulations and had been given copies of the hospitals policies and procedures regarding release of information. The claimant admitted to Ms. Ehlers and at the hearing that she had called her ex-husband and revealed information to him about a patient in the hospital prior to obtaining a written release from the patient. The claimant did not have written authorization from the patient to make the release at the time she breached the confidentiality of the patient. The claimant was required to have the release in writing prior to revealing any information about the patient. The federal law, hospital rules and regulations apply even in the case of brothers of ex-husbands.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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).

An employer has a right to expect employees to conduct themselves in a certain manner. The claimant disregarded the employer's rights by failing to follow the employer's rules and regulations about confidentiality of patient information. The claimant may have received permission from the patient to make the release of information after she made the call to her ex-husband, but the permission was granted only after the release of information had been made. The claimant had no right, regardless of her relationship with the patient and her ex-husband to make the release of information without first following hospital regulations and federal HIPPA laws. The claimant's argument that she was not required to follow the federal law regarding release of information because she had fibromyalgia is not credible. The claimant is attempting to justify her breach of rules by blaming her fibromyalgia. The claimant deliberately revealed information when she did not have written permission to do so as required by both federal law and the employer's policy. The claimant's actions violated the federal law as well as the employer's policy. The claimant acted deliberately to make the call. The claimant's argument that her coworker should not have reported her conduct is similarly unpersuasive as an excuse for her behavior. Coworkers are required to report violations of policy and not required to notify the violator prior to doing so. The employer's evidence does establish that the claimant deliberately and intentionally acted in a manner she knew to be contrary to the employer's interests or standards. The claimant's disregard of the employer's rights and interests is misconduct. As such, the claimant is not eligible to receive unemployment insurance benefits. Benefits are denied.

DECISION:

The January 6, 2005, reference 01, decision is affirmed. The 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.

tkh/pjs