

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

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Appeal Number: 04A-UI-01886-LT
OC 01-18-04 R 02
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:

Claimant filed a timely appeal from the February 11, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 10, 2004. Claimant did participate. Employer did participate through Cheri Geitz. Employer's Exhibits One through Five were received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time LPN through January 15, 2004 when he was discharged. On January 14, claimant had a frostbite patient and reported that the patient was "doing okay" and there were "no new changes." He did not report the patient was depressed due to lengthy

hospitalization, status of medications, sleeping patterns, and wound care. On August 22, 2003, employer warned him about proper patient care and documentation when he documented a 14-year-old as a 14-month-old. That warning also covered August 10, when he took a nap during an assessment and the CNA had to complete the process for him and wake him up. He regularly made himself unavailable to help coworkers.

On January 8 and 9, claimant did not follow through on the proper protocol of a heparin (anti-coagulant) drip in a patient. Claimant did not draw lab work as required to determine if the monitored range is within normal limits. Charge nurse asked claimant about level at noon and claimant told her it was therapeutic based on early morning labs and did not order labs. She asked if it needed to be redone and claimant said he did not know. He did not pursue the issue further. The supervisor realized the labs were not completed at the end of the shift and ordered the labs. The IV had infiltrated so that the medication was filtering into the surrounding tissue causing swelling. After being notified, claimant left to go home and did not stay to follow through with the patient.

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).

Employer has credibly established that claimant had a pattern of complacency with regard to patient care, proper documentation and assisting coworkers. The final incident of inadequate documentation, coupled with the prior negligent job performance established misconduct. Benefits are denied.

DECISION:

The February 11, 2004, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

dml/kjf