

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA A YOUNG
Claimant

APPEAL NO. 07A-UI-09474-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 09/09/07 R: 04
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Debra Young filed an appeal from a representative's decision dated October 10, 2007, reference 02, which denied benefits based upon her separation from Care Initiatives. After due notice was issued, a telephone conference hearing was held on October 23, 2007. Ms. Young participated personally. The employer participated by Jennifer Coe, hearing representative, and witnesses Amanda Kehoe, Barbara Barker, and Rebecca Martens. Exhibits One through Six were received into evidence.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct in connection with her employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from March 23, 2007, until August 24, 2007, when she was discharged for failing to dispense medications or to provide notification that she had failed to do so. Ms. Young was employed as a full-time registered nurse and was paid by the hour.

The claimant was discharged based upon her failure on August 23, 2007, to dispense medications to five residents and the claimant's failure to provide notification to other nursing staff or the record that the medications had not been dispensed to the residents as required. Ms. Young had previously been warned for a similar occurrence. At the time of the exit interview, Ms. Young provided no explanation for her failure and provided no extenuating circumstances to the employer. The claimant was aware of her job responsibilities based upon her extensive experience as a registered nurse and on-the-job experience during her approximate five months of employment.

It is the claimant's position that her failure was due to an excessive workload on the day in question and that she had not received full orientation at the time of hire.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record, that the employer has sustained its burden of proof in establishing that Ms. Young's discharge took place under disqualifying conditions. The evidence in the record establishes that Ms. Young had previously been warned for a similar infraction and was aware of her job responsibility with respect to the dispensing of medication to residents. Ms. Young was aware that each resident must have his or her medication dispensed at the proper time and that, in the alternative, documentation must be made to notate any discrepancies. Although the claimant was aware of her job responsibilities, Ms. Young failed to dispense medications to five residents on August 23, 2007, and did not notate the failure to dispense. This conduct showed a disregard for the employer's interests and standards of behavior and thus was disqualifying under the provisions of the Iowa Employment Security Act.

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.

For the reasons stated herein, the administrative law judge finds that the claimant's separation took place under disqualifying conditions. Accordingly, benefits are denied.

DECISION:

The representative's decision, dated October 10, 2007, reference 02, is hereby affirmed. The claimant was discharged under disqualifying conditions. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw