

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEVERLY D WINEBRENNER
Claimant

APPEAL NO: 14A-UI-04483-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUTCHMEN INC
Employer

OC: 04/06/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's April 30, 2014 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated at the May 19 hearing. Brian Glenn, the director of pharmacy, and Stacy Earley appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer hired the claimant on January 27, 2014, to work full time as a pharmacy technician in training. When the claimant started her employment, she received training on how to double count medication.

During her employment, the claimant did not understand that her job was ever in jeopardy. The employer had talked to her about her work habits and what she needed to do to improve. The employer did not give the claimant any written warnings.

On April 4, the claimant dispensed a highly controlled narcotic drug. Somehow the claimant understood she was to dispense 220 doses instead of the 120 that had been ordered by a physician. The claimant gave a customer 220 doses of medication instead of 120. Since this medication is highly controlled, the employer quickly discovered the claimant's miscounting error. The claimant acknowledged she dispensed 220 instead of 120 doses of this medication. For some reason the claimant did not correctly read the dosage the physician prescribed. The employer discharged the claimant on April 10 for miscounting a controlled narcotic and for not performing to the employer's standard that her job required of her.

The claimant established a claim during the week of April 8, 2014. The employer is not one of her base period employers.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established justifiable business reasons for discharging the claimant. While the claimant's miscounting error amounts to a substantial disregard of the employer's interests, the claimant did not intentionally miscount a narcotic. She was negligent when she gave a person 100 more doses than the doctor prescribed. Since the employer had no knowledge of any previous counting errors as of April 10, this incident of negligence does not rise to the level of work-connected misconduct. As of April 6, 2014, the claimant is qualified to receive benefits.

The employer's account will not be charged during the claimant's current benefit because the employer is not one of her base period employers.

DECISION:

The representative's April 30, 2014 determination (reference 02) is affirmed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of April 6, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css