

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL D ROOP
Claimant

HCM INC
Employer

APPEAL NO: 13A-UI-10923-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/18/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 17, 2013, reference 01, that held she was discharged for misconduct on August 18, 2013, and benefits are denied. A telephone hearing was held on October 17, 2013. The claimant did not participate. Dan Hansen, Administrator, and Deb Bovel, Assistant DON, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on November 5, 2012, and last worked for the employer as a full-time charge nurse on August 18, 2013. The employer issued claimant written disciplinary warnings for medications errors on: May 28, 2013; June 12; and August 13. The employer put claimant on a 90-day probation period for the latter warning. When she made four medications errors involving residents on August 17, she was terminated for violation of policy on August 18

Claimant was not available when she was called for the hearing at the telephone number she provided.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes employer established claimant was discharged for misconduct on August 18, 2013 for repeated medication errors.

Claimant was issued progressive discipline with a final warning 90-day probation and her continuing medication errors on August 17 does constitute job disqualifying misconduct.

DECISION:

The department decision dated September 17, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on August 18, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css