

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN CASKEY

Claimant

APPEAL NO. 13A-UI-13449-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTHWEST IOWA COMM COLLEGE

Employer

OC: 11/03/13

Claimant: Appellant (1)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Dawn Caskey (claimant) appealed an unemployment insurance decision dated November 27, 2013, reference 02, which held that she was not eligible for unemployment insurance benefits because she was discharged from Northwest Iowa Community College (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 31, 2013. The claimant provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. The employer participated through Ruth Hobson, Director of the Nursing Program. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time clinical instructor for associate degree nursing students from August 2012 through September 11, 2013 when she was discharged for repeated unprofessional conduct. She had received a warning on September 27, 2012 for similar conduct when she left three hours early without authorization or notification. The claimant cut the students' class time and told them to leave from the back stairway so others could not see them. She had a family issue that needed attention but she could have simply requested a substitute or requested the students work with another instructor. She was warned that she would be relieved of her clinical instructor duties if there were any other instances.

The claimant was late for class on September 5, 2013 and "did her hair and makeup" sometime at the beginning of the shift. She spent the entire shift with one student while neglecting the other five. She disregarded a student's request for assistance and told her she could handle it. The claimant discussed her need for Xanax, called a co-worker a "fucking bitch" in front of a student, did not check students' documentation at the end of the shift and advised students not

to expect feedback from their clinical assignments for a couple weeks, when it was required to be completed on a weekly basis. The Director left the claimant four messages but she never returned the calls and the Director finally had to go through the claimant's unit nurse manager to contact her to advise her of the termination.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on September 11, 2013 for repeated unprofessional conduct. She had received a previous final warning but her conduct on September 5, 2013 was sufficient in and of itself to result in disqualification due to the multiple incidents of inappropriate behavior. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated November 27, 2013, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs