

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBBIE M HIRD**  
Claimant

**APPEAL NO. 13A-UI-10422-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 08/11/13**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 9, 2013, reference 01, that concluded the claimant was discharged for work-connected misconduct. A telephone hearing was held on October 8, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Alyce Smolsky participated in the hearing on behalf of the employer with a witnesses, Linda Grunstead and Brandon Cranovich. Exhibits One through Six were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a nurse for March 12, 1997, to August 9, 2013. She had received warnings regarding her work performance in 2013 on January 16 for being rude to a family member, on May 23 for recording treatments that had not been performed, and on June 25 for not administering medication as ordered. On June 27, the claimant was given a final written warning for not giving pain medication to a hospice patient as ordered by the director of nursing and not promptly giving pain medication to another hospice patient in violation of the physician's orders.

On August 7, 2013, a certified nursing assistant reported to the claimant about a concern with a hospice resident's skin color. She was required to do an assessment of the resident but failed to do so and told the CNA that she would watch the resident. She did not promptly contact the physician so that medication could be given to a actively dying resident to manage the symptoms. She also failed to change the dressing of the resident who requested it be changed because the claimant felt the dressing was clean and intact.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's conduct in regard to the hospice patient on August 7 after being warned about similar conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated September 9, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/css