

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BETSY MEFFERD**

Claimant

**APPEAL NO: 13A-UI-06262-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IDA COUNTY COMMUNITY HOSP INC**

Employer

**OC: 04/28/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Betsy Mefferd (claimant) appealed a representative's May 17, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Ida County Community Hospital, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 2, 2013. The claimant participated in the hearing and presented testimony from three other witnesses, Lindsey Krayenhagen, Jean Whiting, and Courtney Kromrie. Marty Young of TALX Employer Services appeared on the employer's behalf and presented testimony from three witnesses, Lorraine Davis, Heather Gann, and Carrie Arens. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Reversed. Benefits allowed.

**FINDINGS OF FACT:**

The claimant started working for the employer on January 4, 2011. She worked part time (about 33.5 hours per week) as a barista at the employer's coffee bar. Her last day of work was May 1, 2013. The employer discharged her on that date. The reason asserted for the discharge was being untruthful about having had a conversation regarding a patient.

Another employee reported that on or about April 23 Krayenhagen, a floor finisher in the hospital, had made a comment to about an acquaintance being in the emergency room as a patient, and reported that Krayenhagen had said she had heard this from the claimant. The employer investigated this as a potential HIPAA violation, particularly in light of the fact that the claimant had been given a verbal warning on January 25, 2013 for relaying information to others that should have been held confidential.

The employer asserted that Krayenhagen had stated that the claimant had made comments about the acquaintance being in the hospital as a patient, possibly being pregnant, and undergoing tests. The claimant denied making such statements; she only acknowledged that she had seen the acquaintance's mother and daughter in the hospital and that she had offered the daughter a cookie. The employer concluded that the claimant had lied during the investigation and therefore determined to discharge her. However, Krayenhagen provided direct testimony in the hearing in which she denied that the claimant had said anything to her about the acquaintance being in the hospital, and she further denied that she had told the employer that the claimant had said something about the acquaintance being in the hospital.

#### **REASONING AND CONCLUSIONS OF LAW:**

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. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is the conclusion that the claimant had lied about saying something about the acquaintance being in the hospital as a patient. Assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the employer has not satisfied its burden to establish by a preponderance of the evidence that the claimant in fact said anything about the acquaintance being in the hospital as a patient, and therefore the employer has not established that the claimant's denial was a lie. The employer has not met its burden to show disqualifying misconduct. *Cosper*, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

**DECISION:**

The representative's May 17, 2013 decision (reference 01) is reversed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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