

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on January 10, 2005. The claimant worked full-time as a retail job trainer. When the employer hired the claimant, the employer did not receive a copy of the claimant's certificate verifying she was certified to dispense medication. The employer's policy requires that a copy of the employee's certificate be placed in the employee's personnel file before the employer allows the employee to dispense medication. During the claimant's employment, she dispensed medication but the employer did not have a copy of her medical certificate.

The claimant properly recorded any medication she dispensed to clients. For one client, the claimant and a co-worker understood it was all right to give him a whole tablet at one time instead of cutting the tablet in half and giving the client a half a tablet at a time. On September 28, the employer went through the medical logbook to document another employee's medication error and discovered the claimant's entries. The employer concluded the claimant gave this client the wrong dosage and would have to document that she made medication errors for the last six months. Prior to September 28, the claimant understood she gave the client's medication to him correctly. Although the claimant and a co-worker asserted the client's employment counselor told them the client could receive a tablet instead of half a table at a time, the employment counselor denied this had happened.

The employer discharged the claimant because she made a medication error for six months by giving a client the wrong dosage, distributed medication without authorization, and failed to follow the doctor's prescription.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The facts show the claimant properly recorded any medications she dispensed to clients. Even though the employer's policy requires a copy of an employee's medical certification to be placed in the employee's personnel file before an employee dispenses medication, management allowed the claimant to dispense medication without this certification in her file. Even though the claimant's supervisors changed, the fact the employer allowed the claimant to dispense medication without the certification is a management issue and does not amount to work-connected misconduct on the claimant's behalf.

The facts do not establish with certainty how the claimant came to understand she could give the client a tablet instead of half a tablet. Regardless of how she came to this understanding, she properly recorded the medication she dispensed. The claimant did not intentionally or substantially disregard the employer's interests when she dispensed medication to a specific client.

The employer established compelling business reasons for discharging the claimant. The employer did not establish that the claimant committed work-connected misconduct.

**DECISION:**

The representative's October 13, 2005 decision (reference 01) is affirmed. As of September 25, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjw