

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BARBARA A ANDERSON**  
Claimant

**APPEAL NO. 11A-UI-00942-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRINITY REGIONAL HEALTH**  
Employer

**OC: 12/26/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated January 20, 2011, reference 01, which denied benefits based upon the claimant's separation from Trinity Regional Health. After due notice was issued, a telephone hearing was held on March 3, 2011. The claimant participated. The employer participated by Ms. Janis Smelek, human resource manager.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Barbara Anderson was employed by Trinity Regional Health as a part-time registered nurse from June 14, 2010, until December 29, 2010, when she was discharged from employment for failure to maintain her employability. Ms. Anderson was aware at the time of hire that she needed to be able to maintain her licensing as a registered nurse to continue in employment and the claimant was aware that she would be unable to practice her profession as a health care professional if her name had been included in a dependent adult abuse registry.

On or about December 29, 2010, Ms. Anderson self-reported to Trinity Regional Health that a previous allegation of dependent adult abuse had been determined to be a founded allegation. The claimant was thus ineligible to continue working at Trinity Regional Health until she received a waiver or the previous allegation that had been determined to be founded had been removed.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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.

In this matter, Ms. Anderson was aware that in order to perform her duties as a licensed health care professional, she needed to maintain her licensing free from any finding or conviction of dependent adult abuse. The claimant's separation was inextricably tied to her loss of ability to perform her services as a health care professional, based upon a finding that she had engaged in dependent adult abuse. The claimant's failure to maintain her employability was in disregard of the employer's interests and standards of behavior and thus was disqualifying under the provision of the Employment Security Act.

The employer has met its burden of proof in establishing that the claimant's separation took place under disqualifying conditions. Benefits are withheld.

**DECISION:**

The representative's decision dated January 20, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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