

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRACIE N ALSTED
Claimant

CONCENTRA HEALTH SERVICES INC
Employer

APPEAL 15A-UI-06653-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/15
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
871 IAC 24.32 (9) – Suspension/Disciplinary Layoff

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 8, 2015, (reference 02) unemployment insurance decision that denied benefits based upon misconduct. The parties were properly notified about the hearing. A telephone hearing was held on July 7, 2015. Claimant participated personally and identified witness Sandra Anderson who did not testify. Employer did not participate.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a medical assistant from November 19, 2012, and was separated from employment on April 21, 2015, when she was suspended indefinitely and ultimately terminated.

On April 21, 2015, claimant was assigned to complete physicals. When claimant was in the waiting room calling back a patient for a physical, another patient complained to her about the wait and asked how long it would be before her appointment. Claimant said she did not know. After the patient who complained received her service, which was an injection, she was waiting to check out. Claimant let her know she did not have to check out as she only had an injection. Claimant was trying to be helpful. The patient then stated to the receptionist, "That one needs some sensitivity training." The receptionist asked, "Why. What happened?" The patient then called claimant a "bitch" multiple times. Claimant asked, "Why. What did I do?" The receptionist told the patient there was no manager on premises, but offered a phone number if the patient wanted to complain.

The receptionist called corporate and reported the incident. Later that day, claimant got a phone call from Assistant Operations Manager Alena who asked what happened. Claimant explained the incident. Alena sent claimant home on suspension without pay.

On April 30, 2015, Area Operations Director Tara Schulz called claimant and terminated her employment for "patient complaints."

Claimant had no previous warnings.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

In this case, claimant's conduct does not evince 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.

DECISION:

The June 8, 2015, (reference 02) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

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Decision Dated and Mailed

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