

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEAH M RIORDAN
Claimant

APPEAL NO: 11A-UI-16058-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOONE COUNTY HOSPITAL
Employer

**OC: 11/13/11
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 8, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked 18 years for the employer as a full-time medical receptionist. When the employer gave the claimant her annual performance review in March 2011, the claimant understood the employer wanted her to address some issues. In a follow-up meeting in June, the claimant understood she had satisfactorily addressed the issues the employer talked to her about earlier. In June 2011, the claimant received a bonus.

The employer did not talk to the claimant about any problems or issues again until mid-October 2011. After a staff mid-October meeting, the employer told the claimant she had been disrespectful to a physician who had led the group in prayer after the meeting. The claimant understood the employer believed she had been disrespectful to this physician because she had not prayed correctly. The claimant did not understand how she had been disrespectful.

The employer did not say anything to the claimant for about two weeks. On November 4, the employer told the claimant she was discharged. No reasons were given to the claimant for her discharge.

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).

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act. 871 IAC 24.32(8).

The employer may have discharged the claimant for justifiable business reasons. The evidence does not establish that the claimant committed a current act of work-connected misconduct. As of November 13, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's December 8, 2011 determination (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute a current act of work-connected misconduct. As of November 13, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs