

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

AMY STEWARD

Claimant

APPEAL NO: 18A-UI-06970-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA

Employer

OC: 05/20/18

Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 21, 2018, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 16, 2018. The claimant participated in the hearing. Mary Eggenburg, Benefits Specialist and Samantha Miller, Human Resources Generalist, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time central service technician I for The University of Iowa from February 1, 2016 to May 8, 2018. She was discharged after the employer followed its progressive disciplinary policy because the claimant demonstrated a pattern of poor quality of work.

The claimant was responsible for sterilizing medical trays for surgeries and procedures. On August 3, 2017, the claimant received a one day suspension for quality related issues after a hair and an eyelash were found in the sterile field of a medical tray the claimant sterilized. Her quality score was also a concern because her number was 258.4 when the employer expects the number to be 100. Additionally, the claimant incorrectly completed a clinic medical tray and was not in the area where she was supposed to be working.

On February 3, 2018, the claimant received a three day suspension after a bracelet was found in a medical tray the claimant sterilized and the entire tray had to be sterilized again.

On April 3, 2018, the claimant received a five day suspension for quality issues after she put dirty instruments in a basket of contaminated instruments instead of doing so in an orderly manner, which resulted in all of the instruments in the basket having to be sterilized again. The

employer also testified the claimant left dirty instruments from several different departments unattended on a transport cart by the elevator while she went to gather more instruments to be sterilized. Leaving the medical instruments alone on a cart is a violation of the employer's policy. The claimant was notified that the next infraction would result in termination.

On April 24, 2018, the claimant failed to put the arrows on a medical tray which indicate the tray is sterilized and ready for use and when the tray went to its intended department it could not be used and had to be sent back, which delayed the patient's procedure as the doctors could not tell if the tray was sterilized. The employer placed the claimant on paid administrative leave because her supervisor was out of town at a conference and all other management employees involved were out of the office. The employer notified the claimant her employment was terminated May 8, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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).

The employer has the burden of proving disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1).

While the claimant believes she was not well liked within the department and was "set up" as a result, she did not deny several of the incidents for which she received warnings. The claimant showed a pattern of poor performance and repeated carelessness in a position where the product must be perfect or risk harm to patients. The employer followed its progressive disciplinary policy and terminated the claimant for the final incident April 24, 2018, when she failed to place the arrows on a medical instrument tray, which resulted in the patient's procedure being delayed.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The June 21, 2018, reference 02, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn