

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY G ARNOLD
Claimant

APPEAL NO: 10A-UCFE-00019-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROADLAWNS MEDICAL CENTER
Employer

OC: 04/18/10
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's May 12, 2010 decision (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on July 6, 2010. The claimant participated in the hearing with his attorney, Charles Gribble. The employer chose not to participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked about six years for the employer. He worked as a shift nurse in the emergency room. During the claimant's employment, the employer talked to him about his attendance. The employer had not talked to him about the way he interacted with co-workers. Prior to April 19, the claimant's job was not in jeopardy.

In mid-April 2010, the claimant was starting his 11:00 p.m. shift when a nurse, who the claimant supervised, told him a doctor wanted a patient moved to a room. No nurse had been assigned to this patient yet. It was the claimant's job to assign a nurse to the patient. The claimant told the nurse that the patient could wait a few minutes before being moved to the room because reports had to be done and shifts were changing. The claimant reminded the nurse that she did not work for the doctor and that he was her supervisor. The patient was not in an emergency situation. Instead of following the claimant's directions, the nurse moved the patient to the room as a doctor had asked her to do and told the claimant that he was wrong.

When the doctor asked the nurse to move the patient into a room, this request should have been made to the claimant so he could assign a nurse or explain to the doctor why the patient needed to wait a few minutes.

On April 19, 2010, the director of nursing discharged the claimant. The employer told the claimant he was discharged because he intimidated staff.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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 employer may have had business reasons for discharging the claimant. The facts presented at the hearing do not establish that the claimant committed work-connected misconduct. Therefore, as of April 18, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's May 12, 2010 decision (reference 01) is reversed. The employer discharged the claimant, but did not establish he was discharged for work-connected misconduct. As of April 18, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css