

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY A WOOD
Claimant

APPEAL NO. 14A-UI-11541-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KEOKUK AREA HOSPITAL
Employer

OC: 09/28/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Judy Wood (claimant) appealed a representative's October 31, 2014, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Keokuk Area Hospital (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 18, 2015. The claimant was represented by Curtis Dial, Attorney at Law, and participated personally. The employer was represented by Lisa Stephenson, Attorney at Law, and participated by Louise Skow, Employment Manager; Karyn Bachar, Controller; and Lora Taylor, and Human Resources Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 25, 1977, as a full-time patient registration clerk. The claimant signed for receipt of the employer's handbook on July 26, 1977. The employer did not issue the claimant any warnings during her employment. As part of the claimant's job she printed stickers with the patient's identifying information for placement on documents.

On September 24, 2014, a school nurse contacted the employer about a student/relative of the claimant who had medical notes for absences on January 2, March 10, 24, 27, and September 24, 2014. The notes were on medical excuse paper from the employer and contained stickers containing information from a 2013 visit. The 2013 date was redacted. The school was unaware who provided the notes to the school.

The employer investigated and discovered the stickers originated from the claimant's computer. The computer was used by numerous workers. A supervisor had previously instructed the claimant to leave the computer on while she was away from her desk. Sometimes the computer

sent messages to print items to the printer without input from a worker. The employer questioned the claimant and she did not know where the stickers originated. The records indicate the stickers were printed when the computer was being used under the claimant's username and password. The claimant did not give her username and password to any other person. The employer suspended the claimant on September 26, 2014, and terminated her on September 29, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance

benefits. Such misconduct must be “substantial.” Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). While the employer did provide circumstantial evidence, it did not provide sufficient evidence of job-related misconduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

DECISION:

The representative’s October 31, 2014, decision (reference 02) is reversed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs