

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TONI J WULF
Claimant

FAMILY CRISIS CENTERS OF NW IA
Employer

APPEAL 22A-UI-01170-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/28/21
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge from Employment

STATEMENT OF THE CASE:

On December 16, 2021, claimant Toni J. Wulf filed an appeal from the December 13, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant was discharged from employment due to conduct not in the best interest of her employer. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Thursday, February 3, 2022. The claimant, Toni J. Wulf, participated personally, and witness Sara Peter, claimant's daughter, testified on claimant's behalf. The employer, Family Crisis Centers of Northwest Iowa, participated through Jessica Rohrs, Director of Victim Services. Mindy Lapka, Unit Director/Supervisor for the employer, observed the hearing but did not testify. Employer's Exhibits 1 through 7 were received and admitted into the record over objection.

ISSUE:

Was the claimant discharged from employment due to disqualifying, job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Family Crisis Centers of Northwest Iowa on June 1, 2021. She was a full-time employee, and she held the position of domestic abuse comprehensive division advocate. Claimant's employment ended on December 2, 2021, when she was discharged from employment for breaching her duty of confidentiality.

The incident leading to the end of claimant's employment occurred on November 30, 2021. That day, during a conversation with her daughter, claimant disclosed the identity of one of the employer's clients. While claimant did not tell her daughter the client's name, she shared sufficient personally identifiable information that her daughter was able to identify the person claimant was referencing.

Claimant then called her supervisor, Misty, to report the information she had learned from her daughter. Specifically, claimant learned information that she believed would ultimately help the employer's client. When Misty asked how claimant came to know the information, claimant

replied, "I spoke with my daughter about the situation, and she told me..." and proceeded to divulge the information she learned. (Exhibit 7) Misty notified the claimant that she had breached confidentiality, which claimant acknowledged. Misty then said she would have to report this incident. Pursuant to the employer's policy, breaching confidentiality is grounds for immediate discharge without any prior warning.

The employer maintains strict confidentiality requirements, which are mandated by its state and federal funding sources. These requirements are imposed in order to ensure safety and anonymity for the clients served by the employer. The employer's policy prohibits employees from disclosing confidential information either intentionally or inadvertently. (Exhibit 2) Claimant received training on confidentiality during her employment. She attended a webinar that reviewed the employer's policy on confidentiality. Additionally, when claimant was hired, the employer reviewed the confidentiality policy with her in detail. Claimant signed off acknowledging she received and understood the employee handbook and the confidentiality policy and training. (Exhibits 5 and 6)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for disqualifying, job-related misconduct. Benefits are withheld.

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 Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer presented the more credible version of events leading to the end of the claimant's employment. Claimant's emphatic testimony that she did not participate in the conversation with her daughter is simply not believable. Additionally, claimant made inconsistent statements regarding the confidentiality training she received and her understanding of what was and was not acceptable conduct. Both of these factors undermined claimant's credibility as a witness.

In working with clients who have experienced domestic abuse, confidentiality is of paramount importance. The employer has presented substantial evidence, both testimony and documentation, that claimant breached confidentiality on November 30, 2021. Claimant received training on confidentiality during her employment and understood the standards of behavior the employer expected her to uphold. Even if the administrative law judge believes that Misty routinely spoke to third-party service providers prior to obtaining a signed release from a client, what claimant did is fundamentally different. Claimant initiated a conversation with her daughter, who no longer worked for any relevant service provider, regarding one of the employer's clients. Nothing in claimant's training, and nothing she alleges observing on the job, indicated this was acceptable behavior. Claimant knew the consequences of breaching confidentiality, as they were clearly set forth by the employer. The employer has established that claimant was discharged from employment for disqualifying, job-related misconduct. Benefits are withheld.

DECISION:

The December 13, 2021 (reference 01) unemployment insurance decision is affirmed. 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.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

February 28, 2022
Decision Dated and Mailed

lj/lj