

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTINA BOE**  
Claimant

**APPEAL NO. 13A-UI-11865-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GREAT RIVER MEDICAL CENTER**  
Employer

**OC: 09/22/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Kristina Boe (claimant) appealed an unemployment insurance decision dated October 11, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Great River Medical Center (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Christy Ford, Human Resources Generalist and Ann Hannum, Director of Nursing. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the claimant was discharged for work-related misconduct.

**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 employed as a part-time licensed practical nurse in this long term care facility from November 29, 2006 through September 24, 2013 when she was terminated for theft of narcotics. There were drugs missing from the claimant's shift on September 20, 2013 and she was the only nurse who had access to the medication. The director of nursing questioned the claimant at the end of the shift and she admitted taking and consuming 24 Vicodin pills during that shift. The employer contacted the Southeast Iowa Narcotic Task Force officer who questioned the claimant further. The claimant admitted she had stolen narcotics from the employer during the past year and the officer removed drugs from the claimant's vehicle. There is an ongoing criminal investigation into the claimant's admitted theft of narcotics from the employer.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has

discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on September 24, 2013 for theft of narcotics from the employer. The employer's investigation confirmed the claimant's theft and she admitted her illegal actions. The claimant's theft shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated October 11, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css