

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHELLEY L PETERSON**  
Claimant

**CENTRAL IOWA HOSPITAL  
CORPORATION**  
Employer

**APPEAL 21A-UI-00744-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Appellant (1/R)**

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Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Shelley Peterson (claimant) appealed a representative's December 3, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits after a separation from work with Central Iowa Hospital Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 10, 2021. The claimant participated personally. The employer participated by Mitchell Spivey, Human Resources Business Partner. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issues include 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 worked for the employer from December 31, 2001, to August 25, 2020, as a full-time medical technologist. She received the employer's handbook during her orientation.

On October 10, 2019, the employer issued the claimant a written warning for errors on a testing procedure. The claimant admitted to failure to mark "negative" on test forms. The employer notified the claimant that further infractions could result in the claimant's separation from employment. The employer required that the claimant's work be checked when she did that type of testing. The claimant opted out of that type of testing.

On June 15, 2020, the employer issued the claimant a probationary/final written warning for entering one patient's information on another patient's form. The employer notified the claimant she could be terminated for further infractions. The employer required another technician to

verify the claimant's work when she worked in the Sunquest System. She was to have no errors in the next two years.

The claimant continued without asking anyone to verify her work when operating in Sunquest. She thought the work environment was too busy with samples arriving at the window and by tube. She had a personality conflict with the lab director.

On August 19, 2020, the claimant meant to type a number on the Sunquest system but entered the number on the wrong page. This caused the system to reduce the value of the number to less than 0.00. The lab director questioned the claimant about the error. On August 25, 2020, the employer terminated the claimant for repeated carelessness.

The claimant filed for unemployment insurance benefits with an effective date of May 3, 2020. Her weekly benefit amount was determined to be \$481.00. The claimant received benefits off and on from May 3, 2020, to the week ending November 21, 2020. This is a total of \$7,215.00 in state unemployment insurance benefits after the separation from employment. She also received \$2,400.00 in Federal Pandemic Unemployment Compensation for the four-week period ending May 30, 2020.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for 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 proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Repeated unintentional careless behavior of claimant towards subordinates and others, after repeated warnings, is misconduct. *Greene v. Employment Appeal Board*, 426 N.W.2d 659 (Iowa App. 1988). In this case, the claimant knew how to perform the work, knew she had to take precautions in performing her duties, or she would be terminated. The claimant failed to take the normal required steps of making certain she was performing the duties of the employer in the correct manner. Her failure to act prudently after repeated warnings is misconduct. Benefits are denied as of August 23, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

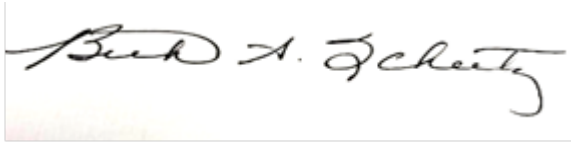
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

**DECISION:**

The representative's December 3, 2020, decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



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Beth A. Scheetz  
Administrative Law Judge

February 22, 2021  
Decision Dated and Mailed

bas/scn