

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KARA L BUTTERFIELD**  
Claimant

**APPEAL NO. 11A-UI-15684-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALLEN MEMORIAL HOSPITAL**  
Employer

**OC: 11/06/11  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated December 5, 2011, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on January 10, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Ben Roth, Attorney at Law. Megan Combs participated in the hearing on behalf of the employer with a witness, Glen Rogers.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as a housekeeper for the employer from August 9, 2004, to November 9, 2011. She received a second-level warning on August 4, 2011, for displaying disrespectful conduct toward a supervisor. She received a third-level warning and suspension after an inspection of a room she had cleaned showed some cleaning deficiencies.

On November 1, 2011, the claimant cleaned a hospital room. She cleaned the room for 30 minutes and followed the usual cleaning procedures. The next day, the room was inspected and the inspector reported finding blood, feces, and hair in the room.

A couple of days later, the claimant was confronted by management about the inspection report. She was discharged on November 9, 2011, for deficiencies in her job performance.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or

omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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 substantial and 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).

No willful and substantial misconduct has been proven in this case. The question is whether the evidence supports a conclusion of repeated negligence equaling willful misconduct in culpability. I cannot conclude that this level of culpability has been proven by the evidence in this case.

**DECISION:**

The unemployment insurance decision dated December 5, 2011, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css