

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KELLEY R SMITH-LARSON
Claimant

APPEAL 16A-UI-06481-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HUMBOLDT COUNTY MEMORIAL
HOSPITAL**
Employer

**OC: 05/22/16
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 7, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her discharge for conduct not in the best interest of her employer. The parties were properly notified of the hearing. A telephone hearing was held on July 15, 2016. The claimant Kelley Smith-Larson participated and was represented by attorney Stuart Cochran. The employer Humboldt County Memorial Hospital participated through human resource director Mary Motirz and chief nursing executive Victor Bycroft.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a patient care coordinator from January 2, 1996, until this employment ended on May 20, 2016, when she was discharged.

The employer has in place a Standards of Behavior and Key Service Behaviors policy. Every employee is required to sign this policy and by doing so generally agrees to treat members of the team and patients with respect and to provide exceptional care. Claimant was aware of and agreed to this policy.

On May 20, 2016, Bycroft received multiple complaints from various staff members regarding claimant. The specific complaints varied from each person, but included allegations that claimant was rude or short with people, that she would not listen to other staff members' thoughts and ideas, and that she was not acting on suggestions with sufficient urgency. These claims did not include any allegation that claimant was abusive, threatening, or used vulgar language to other staff members. This behavior did not comply with the Standards of Behavior and Key Service Behaviors policy.

Prior to May 20, claimant had been warned about not following the Standards of Behavior and Key Service Behaviors policy. On November 20, 2015, claimant received a final warning for failing to follow this policy. Claimant was advised that she needed to change the way she interacted with other staff members or she would be terminated. Claimant testified she asked for specific suggestions, but was given none. In an attempt to improve, claimant took it upon herself to seek counseling, but testified the counselor was unable to help her without more specific detail on what the employer was looking for her to change. Claimant found it difficult to change her behavior as she did not perceive her demeanor to be that as described by her coworkers. Claimant testified she would always pass along other staff members' ideas and suggestions to the patients' doctors to determine the appropriate course of action. Based on claimant's failure to improve and the continued complaints against her the decision was made to terminate her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

Iowa Code section 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.

871 IAC 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 Department of Job Service, 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). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). 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).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Claimant was discharged from employment due to her failure to interact with other staff members in a way that was acceptable to the employer. The employer has a policy in place which requires staff to be respectful of one another. There were no allegations that claimant used profanity towards other employees or that she was threatening or otherwise abusive. While it is clear that claimant and some of her coworkers had strong personality conflicts, there is no evidence that claimant was acting deliberately against the employer's policy. Though the employer may have had good business reason to discharge claimant from employment, it has not shown she engaged in deliberate work-related misconduct. Benefits are allowed.

DECISION:

The June 7, 2016, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/pjs