

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMANDA L BERGVIK**  
Claimant

**APPEAL NO: 13A-UI-13480-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARBOR SPRINGS**  
Employer

**OC: 11/17/13**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's December 9, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated in the January 2 hearing. Naren Coxe, the human resource director, appeared on the employer's behalf. During the hearing, Employer Exhibits One through Five were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on August 15, 2013. She worked as a full-time quality assurance nurse. The claimant's job duties included performing skin assessments and then recording the assessments.

After the director of nursing returned from a vacation on November 11, employees reported concerns about the claimant's documentation of skin care assessments. One documented skin assessment indicated the claimant completed a skin care assessment on a day she did not work. The claimant told the employer she made an error on the date. (Employer Exhibit Five.) The director of nursing made copies of skin assessment reports on various patients on November 13 and 15. The November 15 copies reflect skin assessments report that were done before November 13 but did not recorded until November 14. The report did not reflect the assessment had been recorded late or a day other than the day the assessment had been made. (Employer Exhibits One through Four.)

The employer talked to the claimant on November 19. When the employer asked if she was current with all her documentation for the previous week, she said she was. When the employer showed her copies of the skin assessment documents, Employer Exhibit One through Four, the claimant showed the employer notes which were associated to three of the added entries.

When the claimant could not show the employer supporting documentation or notes to support five more skin assessment reports that she documented late, the employer doubted that the claimant actually made the skin assessments she recorded. The employer discharged the claimant for falsifying company records. (Employer Exhibit Five.)

The claimant established a claim for benefits during the week of November 17, 2013. The employer is not one of the claimant's base period employers.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant may not have timely recorded skin assessments she did. When she documented skin assessments, she did indicate she recorded the skin assessment later than the day she made the actual assessment. While the employer's concern are legitimate – that the claimant did not make the skin assessments she recorded, the claimant's testimony that she made the questioned assessments is credible. The fact she had notes for three assessments supports this credibility conclusion. The evidence does not support the employer's conclusion that the claimant did not do skin assessments. The claimant did not record the skin assessments on the day she did them and she did not indicate she recorded the assessments on a later day.

The employer established justifiable business reasons for discharging the claimant. The claimant did not falsify the skin assessment, but she did not document that she recorded them late. For unemployment insurance purposes the claimant did not intentionally violate the employer's policies. As of November 17, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

Since the employer is not a base period employer during the claimant's current benefit year, the employer's account will not be charged.

**DECISION:**

The representative's December 9, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of November 17, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css