

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAURA J SCHAFFER**  
Claimant

**APPEAL NO. 14A-UI-02696-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABCM CORPORATION**  
Employer

**OC: 02/09/14**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The employer filed an appeal from a representative's decision dated February 27, 2014, reference 01, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was held on April 2, 2014, by telephone conference call. The claimant participated personally. Employer participated by Ted Boefe, administrator. The record consists of the testimony of Ted Boefe and the testimony of Laura Schaffer.

**ISSUE:**

Whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a nursing home located in Sac City, Iowa. The claimant was hired on January 10, 2013, as a full-time certified nursing assistant. The claimant's last day of work was February 4, 2014. She was suspended on February 5, 2014. She was terminated on February 10, 2014.

The incident that led to the claimant's termination occurred on February 4, 2014. The claimant was assisting a resident when the air mattress deflated and the resident slipped off the bed. The claimant had moved the resident to her side in order to do some cleansing. For reasons unknown, the air mattress gave way and there was no support for the resident. The resident was injured in the fall.

The claimant had never been disciplined for any reason while she worked for the employer.

## REASONING AND CONCLUSIONS OF LAW:

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.

Misconduct that leads to termination is not necessarily misconduct that disqualifies an individual from receiving unemployment insurance benefits. Misconduct occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duty to the employer. The legal definition of misconduct excludes simple negligence in isolated instances. The employer has the burden of proof to show misconduct.

The claimant is eligible for unemployment insurance benefits. The most reasonable inference from the evidence is that the incident in question was an accident and not the result of wanton carelessness on the part of the claimant. The administrative law judge is mindful that the resident was injured in the fall. However, the cause of that fall appears to be due to several factors, including the unanticipated deflation of the air mattress. Assuming the claimant's negligence played a role in the fall, it was an isolated instance and certainly not a deliberate act on the part of the claimant to injure the resident. This is not disqualifying misconduct. Benefits are allowed if the claimant is otherwise eligible.

**DECISION:**

The decision of the representative dated February 27, 2014, reference 01, is affirmed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

---

Vicki L. Seeck  
Administrative Law Judge

---

Decision Dated and Mailed

vls/pjs