

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KELLIE D KEENAN**  
Claimant

**IOWA ORTHOPAEDIC CENTER PC**  
Employer

**APPEAL 14A-UI-12787-H2**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/16/14  
Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 8, 2014, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. An in person hearing was held on January 13, 2015 at Des Moines, Iowa. Claimant participated. Employer participated through (representative) Renee Pile, Director of Human Resources, Katie Pace, Back office Manager, and Stacy Thompson, Back Office Supervisor. Employer's Exhibit One was entered and received into the record. Department's Exhibit D-1 was entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job connected 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 back office assistant and radiation technologist beginning on November 5, 2014 through November 19, 2014 when she was discharged.

The claimant was discharged for entering false information into a patient record. The claimant had been counseled that she was working too slowly and that she needed to find ways to keep up with the workload. The claimant would open a patient record, call the patient back from the waiting room and begin working to enter information into the record. Some information was already on the screens as it would import from earlier patient visits or from others, such as the scheduler. On November 10 the claimant was working with a patient getting ready to call him back, when she entered the height and weight of the patient into the record, knowing she would call him back and weigh him on the way to the exam room and could correct the information then if it were different since his last visit. The information only would have been entered permanently into the patient record if the claimant had closed and saved the record. Before she could call the patient back, one of the physicians stepped out of an examination room and asked her to draw up a syringe for him. The claimant left the record open and while she was gone, one of her coworkers took over the record and saved and closed it. Thus, two separate height and weight measurements were entered into this patient's record. The information is

important because at minimum the anesthesiologist would rely on it when calculating medication dosage. The claimant did not know she was entering any false information or that what she was doing was a violation of the employer's regulations as she was not intending to save the record until she verified the information.

The claimant was discharged for entering false information into a patient record. The claimant had received two prior warnings, but they dealt with how quickly she was working, not with any allegation of falsification of patient records. The employer investigation revealed no other instances where the claimant had entered false information into a patient record.

### **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 § 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.

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 administrative law judge concludes the claimant was not trying to falsify data; she was merely trying to keep up with the workload and believed she was doing so by entering weight prior to weighing and then confirming or changing the data when she did weigh the patient. The claimant had no prior warning for falsification of data.

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, employer incurs potential liability for unemployment insurance benefits related to that separation. The conduct for which claimant was discharged was merely an isolated incident of poor judgment and inasmuch as employer had not previously warned claimant about any of the issues leading to the separation, it has not met the burden of proof to establish that claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Benefits are allowed.

**DECISION:**

The December 8, 2014 (reference 01) decision is affirmed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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