

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA D ALEXANDER
Claimant

APPEAL NO. 14A-UI-12702-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 11/09/14
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Christina Alexander (claimant) appealed a representative's December 1, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with ABCM Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 16, 2015. The claimant participated personally. The employer participated by Deanna Armstrong, Human Resources Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 5, 2014, as a full-time registered charge nurse. The claimant signed for receipt of the employer's handbook and nursing booklet on February 5, 2014. The employer issued the claimant a written warning on September 15, 2014, for performance issues. On October 9, 2014, the employer issued the claimant two written warnings. One warning was given after the claimant left medication on the medication cart unattended. The other warning was given when the claimant did not notify the family after a resident's medication had been changed. The employer notified the claimant that further infractions could result in termination from employment.

On November 7, 2014, at 15:34 the claimant gave a resident 1 milligram of Lorazepam, as indicated by the resident's physician. The resident was screaming, yelling, and demanding additional medication. The claimant decided to administer 100 milligrams of Seroquel at 15:34. The resident normally takes this medication at 19:30. Later while the resident was in an activity, the activity director noticed that the resident was incoherent and could not sit up. The employer asked the claimant about the resident and the claimant admitted her actions. The claimant notified the resident's physician, who was not concerned. On November 10, 2014, the employer terminated the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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 employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's December 1, 2014, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs