

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SERICE M SANDERS
Claimant

APPEAL NO. 13A-UI-06031-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 04/21/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 9, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on June 27, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Tiffany Adams participated in the hearing on behalf of the employer with a witness, Julie Nichols.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a certified nurse's aide from November 16, 2010, to April 23, 2013. She was informed and understood that under the employer's work rules, employer were subject to discharge after receiving a verbal warning, written warning, and final written warning.

She was verbal warned on January 23, 2013, for job deficiencies. She received a written warning on March 5 for violating safety rules by leaving a resident in wheelchair without having the seatbelt fastened, which was required by the resident's care plan. She received a final written warning on April 17 for having an unprofessional and confrontational conversation in front of a resident. She understood that one more disciplinary action would result in her termination.

On April 23, 2013, the claimant failed to follow the daily time study by failing to shave two residents and failing to get a resident up and ready for lunch on time.

The employer discharged the claimant on April 23, 2013, for her conduct on April 23 and the prior progressive discipline.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of known work rules was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated May 9, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css