

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURIE S CHURCH
Claimant

APPEAL NO. 07A-UI-04691-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER-CLINTON INC
Employer

**OC: 04/15/07 R: 04
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Laurie S. Church (claimant) appealed a representative's May 1, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Mercy Medical Center-Clinton, Inc. (employer) would not be charged because she had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 23, 2007. The claimant participated in the hearing. Diane Grantz and Beth Lippens, the director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on August 15, 2005. The claimant worked as a full-time registered nurse for the employer. The claimant knew the employer had a written policy. The claimant understood an employee would be disciplined and could be discharged if an employee took any the employer's property without authorization.

On April 7, 2007, the claimant picked up a prescription for herself from the employer's pharmacy. The claimant's prescription required her to inject the medication and the pharmacy did not have any needles or syringes for the claimant. A pharmacy employee suggested the claimant contact another department for her needles and syringes. When the claimant went to this department, they did not have the size the claimant needed for her injections. An employee of this department told the claimant she should just take what she needed from the area where she worked so the employer would not have to order a box of 100 needles and syringes.

On April 7, the claimant took four needles and syringes for her personal use. The claimant told co-workers she was taking these supplies. The claimant estimated the total value that she took

was \$5.00. The claimant assumed the price of her prescription included the cost of the needles and syringes.

The employees reported that the claimant took the needles and syringes. The employer concluded the claimant took the employer's property without authorization, which the employer considered theft. On April 13, the employer discharged the claimant for theft of the employer's property.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on the employer's conclusions, the employer established business reasons for discharging the claimant. Even though the employer's conclusions were reasonable based on information before them, the claimant did not take the employer's needles and syringes with the intent to steal them. This fact is supported by the fact she told co-workers she was taking these items, took the supplies in front of co-workers and admitted she took them when Lippens asked her. Since a pharmacy employee told the claimant to get the needles and syringes she needed for her prescription and an employee from another department and an employee in this department told the claimant to take the supplies from her work area so the employer would not have to order a box of 100, the claimant had no intention of stealing. The claimant may have used poor judgment when she relied on the advice of these other employees, but she did not intentionally or substantially disregard the employer's interests. The claimant did not commit work-connected misconduct. As of April 15, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 1, 2007 decision (reference 01) is reversed. The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. As of April 15, 2007, the claimant is qualified

to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css