

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA R JANSSENS
Claimant

APPEAL NO. 11A-UI-11700-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA ORTHOPAEDIC CENTER PC
Employer

**OC: 08/07/11
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 1, 2011 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on October 17, 2011. Claimant participated. Employer participated through human resources director Renee Pile. Former employee Adam Chaney was not called as a witness for the claimant because he quit the employment in March 2011 because he was going back to school and did not want to sit behind a desk, but does not have information about the claimant's separation. Employer's Exhibit One was admitted to the record.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a medical pre-coder from January 17, 2011 and was separated from employment on August 10, 2011. She went to a professional conference for the American Academy of Professional Coders on August 4, 2011, paid for by the employer, and she approached a part-time employee (hired in May 2011) and AAPC board member Lisa Cooper, who was in the presence of the board, and told her that it was a terrible place to work, that employees were gossiping about others' health issues, that staff was nice in the beginning but then stopped being so, and wanted to talk to her further. Claimant then contacted her at least once more by cell phone over the weekend. Cooper resigned because of the issue and advised the employer about the claimant's statements and conduct at the encouragement of other board members. Other employees who attended reported she had approached the board before and after the conference but they did not hear the conversation. (Employer's Exhibit One, fax pages 3 and 4). The employer's policy prohibits inappropriate communication not in the best interest of the company, any employee, or third party, including gossip, inflammatory language, and discussing confidential matters with outside parties. (Employer's Exhibit One, fax pages 6 - 14) Claimant had complained about a coworker Kelly and Pile, met with both of them and believed the issue was resolved. No further complaints were forthcoming.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related 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.

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.

The employer's evidence is considered credible given the independent sources acknowledging the communication took place, and the specific board members who were part of or overheard the conversation between claimant and Cooper. While she may have directed her comments to Cooper, her communication about her employment concerns in front of the AAPC board rose to the level of misconduct sufficient to warrant a denial of benefits.

DECISION:

The September 1, 2011 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs