

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA R BRACE
Claimant

APPEAL NO: 11A-UI-15442-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WRIGHT MEDICAL CENTER
Employer

OC: 11/06/11
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 28, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in August 2010. She worked as a full-time registered nurse. On August 17, 2011, the claimant went on maternity leave. When she returned to work on September 23, she started working part-time. The claimant understood she would be working full-time hours as of November 8, 2011.

On November 3, the lab technician told the claimant the results of lab tests had to be documented in the lab book in addition to recording the result on the patient's chart. Documenting the results in the lab book was a change that occurred while the claimant was on maternity leave. The claimant had not known she was to record the test results in the lab book in addition to the patient's chart until November 3.

Also on November 3, the claimant had taken down some medication for a patient's vaccination. The claimant had not looked through all the meds when another nurse came into the room. The claimant asked where the med was that she was looking for and the other nurse told her. The other nurse reported that the claimant looked like she was going to give a patient the wrong medication. The claimant knew when the other nurse entered the room that she had not pulled down the correct medication for the patient.

On November 4, the employer discharged the claimant for failing to meet the employer's quality and safety requirements. The claimant had not known her job was in jeopardy when she returned from her maternity leave. After working one year, the employer gave the claimant a raise, but had not indicated her job was in jeopardy.

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).

The employer may have had justifiable business reasons for discharging the claimant, but the evidence does not establish that the claimant intentionally disregarded the employer's procedures or was so careless or negligent that she committed work-connected misconduct. The claimant understood the employer discharged her because she did not know the procedure for recording lab results had changed when she was on maternity leave. It was not until November 3 that anyone told her the employer required her to record the results in a lab book and on the patient's chart. Before the claimant went on maternity leave, the lab results were not recorded in a lab book. As a registered nurse, it was the claimant's job responsibility to make sure nothing had changed when she was on a maternity leave. The claimant's failure to find out about this change at most though amounts to a good-faith error, and not work-connected misconduct.

The claimant understood the employer also discharged her after concluding the claimant would have given a patient the wrong medication if another nurse had not stopped her. Even though the employer made this assumption based on what another employee reported, the claimant did not give the wrong medication to a patient and denied she would have done this. Based on this report, the employer no longer trusted the claimant. Since the employer's conclusion is based on speculation and not a fact, this incident does not establish that the claimant committed work-connected misconduct.

Even though the employer may have been justified in discharging the claimant, the facts do not establish that the claimant committed work-connected misconduct. Therefore, as of November 6, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's November 28, 2011 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of November 6, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw