

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIFFANY J REGENWETHER
Claimant

APPEAL NO. 09A-UI-08878-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 05/03/09
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 8, 2009, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 8, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Lori Lindseth participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time on weekends for the employer as nursing unit clerk from November 7, 2008, to April 26, 2009. Marcy Clark was the claimant's supervisor.

The employer discharged the claimant during her six-month probation because of her poor attendance and because she had not finished required mandatory reporter training and training on a program used for patient data.

The claimant was absent on several days due to her own illness and her child's illness. She properly notified the employer about her absences.

The claimant was originally scheduled to take the patient data system training on the morning of April 29. The course was a three-hour classroom course taught by an instructor. After being informed about the course on April 22, the claimant informed Clark that she had college classes that morning and requested that she be scheduled for the class on Thursday, April 30, because she was not in school that day. On April 25, Clark replied to her email and notified her that she did not have to take the course until April 29 at 5:00 p.m. The claimant responded to the email and told Clark again that April 29 would not work for her. Clark never replied. The claimant tried calling Clark but she was not available.

The claimant was not aware that she needed to complete the mandatory reporter training until Clark left a telephone message for her on April 29. She informed the claimant that she had until

the beginning of her work shift on May 2, 2009, to complete the mandatory reporter training, which could be taken online and outside work hours.

The claimant missed the April 29 patient data course. On May 1, 2009, Clark informed her that she was discharged.

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 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 substantial and 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).

While the employer may have been justified in discharging the claimant as a probationary employee, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. Her absences were for legitimate illness and were properly reported. The time period for taking the mandatory reporter training had not expired yet when she was discharged. At most, the claimant committed a good faith error in judgment in not talking to Clark personally about missing the patient data course.

DECISION:

The unemployment insurance decision dated June 8, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css