

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAWNYA L HELM

Claimant

APPEAL NO: 08A-UI-06565-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARDIOVASCULAR MEDICINE PC

Employer

**OC: 06/22/08 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Sawnya L. Helm (claimant) appealed a representative's July 21, 2007 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Cardiovascular Medicine PC (employer) would not be charged because the claimant 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 July 30, 2008. The claimant participated in the hearing. Michelle Hetrick, the human resource coordinator, and Marcia Brunsvold, the clinical support staff supervisor, 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 October 25, 2005. The claimant worked as a full-time medical assistant.

In an October 7, 2007, evaluation, the employer gave the claimant a rating of 1 or unsatisfactory for failing to work as scheduled and for failing to punch in and out on the time clock. The employer considered the claimant's absences excessive and her failure to punch in and out on the time clock excessive. When the employer did not notice substantial improvement on December 7, 2007, the employer gave the claimant a written warning. The employer placed the claimant on probation on January 8, 2008, when the claimant did not make a substantial improvement in her attendance and continued in failing to punch in and out on the time clock. The employer put the claimant on probation for three months.

On February 8, 2008, the employer gave the claimant documentation that she had improved her attendance, but still needed to make improvements. On March 11, 2008, the claimant still was not punching in and out on the time clock as the employer required. As a result, the employer

extended her probation for another three months. Again, the employer told the claimant she had to follow the employer's time keeping policy by punching in and out all the time.

The claimant did not punch in when she reported to work on March 17, April 17, May 16, June 10, 11, and 12. The claimant did not either punch out or in during her 30-minute lunch on March 25, 26, April 25, 30, May 8, 15, 16, 22, and June 13, 2008. On June 13, 2008, the employer learned the claimant had not followed the employer's time keeping procedures by punching in for work on June 10, 11 and 12.

On June 25, 2008, the employer discharged the claimant for repeatedly failing to punch in on the time clock either when she reported to work, left for lunch or came back from lunch.

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 section 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 claimant knew or should have known her job was in jeopardy on March 11, 2008, when the employer extended her probation for an additional three months. The employer extended her probation because she still failed to comply with the employer's time keeping by procedure by properly clocking in or out on the time clock. If the claimant had problems checking in because only five people at a time can use the time clock, she could have talked to Mahoney on these days to explain the situation. The claimant did not do this. She did not even check at the end of the day to make sure she had properly punched in and out on the time clock. The claimant waited until the next week on Monday when Mahoney reviewed everyone's time clock punches.

Since the claimant's job was in jeopardy, the claimant's continued failure to punch in for work on June 10, 11 and 12 amounts to carelessness or negligence to the extent that she committed work-connected misconduct. As of June 22, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 21, 2008 decision (reference 01) is affirmed. The employer discharged the claimant for work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of June 22, 2008. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs