

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY R CAMARDO
Claimant

APPEAL NO: 13A-UI-06571-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SENECA AREA AGENCY ON AGING
Employer

OC: 05/05/13
Claimant: Appellant (2)

Iowa Code 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 24, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the hearing. Linda Richardson, a special programs associate, appeared on the employer's behalf. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the arguments of the parties, 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 February 2009. She worked as a full-time case manager.

The employer reviews case managers' files once a year. The employer discovered some problems with the claimant's files in August 2011. The claimant corrected the majority of the problems discovered in August 2011. The employer gave case managers an example of an organized sample file in September 2012. The claimant attended some training on how to organize files and what information the employer required in the file. The claimant's job was not in jeopardy prior to April 3, 2013.

In January 2013 the employer changed all care plans. After the claimant changed her clients' care plans in January, the employer wanted care plans changed again. The claimant spent the majority of January changing care plans two times. As a result of changing care plans twice, the claimant had not gotten some clients to sign their new and revised care plans.

On March 28, 2013 Richardson audited 68 of the claimant's files. In 59 files Richardson discovered files disorganized, missing forms, missing signatures, and personnel information that should not have been in files. The claimant learned about problems with her files on April 3, 2013.

The employer gave the claimant until April 15 to get her files organized and in compliance with the necessary forms and signatures. She was also told to remove all personal information from a client's file. Some of the forms the claimant did not have. The claimant went online to get a copy of some of the forms that were not in a file. The claimant went through all her files to get them organized and in compliance with all necessary forms and signatures. The claimant did this at the same time she did home visits.

On April 15, when Richardson reviewed the claimant's files again, Richardson found problems with 48 files. The claimant did not have time to correct everything or obtain all necessary signatures because she was doing home visits between April 3 and 15. The claimant's immediate supervisor did not advise her that she could have requested an extension to complete the files. Richardson would have granted the claimant an additional two weeks to get her files in compliance with the employer's requirements. Since the claimant had not asked for more time, the employer discharged her on April 16. The employer discharged her for unsatisfactory work. A majority of her files were disorganized and did not contain some required forms and signatures. The employer discharged the claimant for unsatisfactory job performance. (Claimant Exhibit A.)

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

After the employer audited the claimant's files on March 28, the employer discovered the claimant did not have information in her files in the proper order, she did not have all the necessary forms, she did not have some required signatures and she had personal information in files that needed to be removed. After the claimant learned about the problems with her files, she worked to her best ability to get the files organized, to obtain all necessary signatures from clients, put in necessary forms and remove personal information from files. Since the claimant also did home visits during the two weeks the employer gave her to get her files in compliance with the employer's samples, the claimant did not have enough time to correct all the files the employer discovered needed something. The claimant had not been told and did not know that she could have asked for another two weeks to complete her files. If the claimant would have had an additional two weeks, she believes she would have corrected all her files.

The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. After learning her files did not conform to the employer's samples, the claimant tried to correct her files with all the necessary information in the file as the employer requested. She was unable to do this in two weeks. As of May 5, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's May 24, 2013 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. The claimant tried to make the necessary corrections to her files, but with home visits she was unable to correct all files in two weeks. As of May 5, 2013, 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/pjs