

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN K HAAS
Claimant

APPEAL NO. 11A-UI-08038-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHENANDOAH ANIMAL HOSPITAL INC
Employer

**OC: 05/15/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Shenandoah Animal Hospital, Inc. filed a timely appeal from a representative's decision dated June 9, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on July 14, 2011. Claimant participated personally. The employer participated by Dr. John Brady, Practice Owner.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Robin Haas was employed by the Shenandoah Animal Hospital, Inc. from October 19, 2009 until May 18, 2011 when she was discharged from employment. Ms. Haas held the position of full-time receptionist and was paid by the hour. Her most recent immediate supervisor was Dr. John Brady.

Ms. Haas was discharged from her employment with the Shenandoah Animal Hospital, Inc. when the practice owner, Dr. Brady, made a management decision to terminate the claimant based upon repeated customer complaints about Ms. Haas' demeanor.

During recent months preceding the claimant's discharge Dr. Brady received a number of complaints from dissatisfied clients expressing dissatisfaction about Ms. Haas' demeanor and the manner that she interacted with clients. The employer, not wishing to personally offend Ms. Haas generally counseled all staff members to treat patients properly. Dr. Brady believed that the claimant should have understood that the comments about treating clients properly were directed to Ms. Haas and she should have improved her work demeanor.

When Dr. Brady received a complaint from a client on or about May 18, 2011, he made a management decision to terminate Ms. Haas from her employment believing that the claimant's demeanor was jeopardizing the animal hospital's business.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes intentional, disqualifying misconduct sufficient to warrant the denial of unemployment insurance benefits. It does not.

Iowa Code section 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 has the burden of proof in this matter. See Iowa Code § 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

In this matter the employer made a management decision to separate Ms. Haas from her employment believing that the claimant's general demeanor was not conducive to good client relations and that the claimant's demeanor was causing the animal hospital to lose patients.

Prior to discharging the claimant, however, the evidence in the record does not establish that the claimant was sufficiently warned or counseled individually so as to insure that Ms. Haas understood the employer's dissatisfactions and the employer's expectations. Although the employer issued a general caveat to employees to treat clients happily, this was not sufficient to properly alert Ms. Haas that her particular conduct was unsatisfactory and would result in her termination if not changed. Ms. Haas denies intentionally being brash or mistreating hospital clients.

While the decision to terminate Ms. Haas may have been a sound decision from a management viewpoint, for the above-stated reasons the administrative law judge concludes that the claimant was not discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits. Claimant was not adequately warned prior to her discharge. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated June 9, 2011, reference 01, is affirmed. The claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs