



## APPEAL TRIBUNAL DECISION

**Docket number:** 24 0127    **Hearing date:** March 14, 2024

**CLAIMANT:**

KAREN JACKSON  
[REDACTED]

**EMPLOYER:**

PROVIDENCE HEALTH & SVCS ALASKA  
[REDACTED]

**CLAIMANT APPEARANCES:**

None

**EMPLOYER APPEARANCES:**

Caroline Femer  
Maya Claxton

### CASE HISTORY

The employer timely appealed a January 10, 2024 determination which allowed the claimant's benefits without penalty under Alaska Statute 23.20.379. The issue before the Appeal Tribunal is whether the claimant was discharged for misconduct connected with the work.

### FINDINGS OF FACT

The claimant began work for the employer on May 4, 2015. She last worked on December 20, 2023. At that time, she worked full time as a health unit coordinator.

The claimant's supervisor witnessed the claimant arrive at work at about 9:00 am on December 7, 2023. When the supervisor was reviewing the claimant's timecard for payroll, she noted the claimant's timecard entry for December 7, 2023 showed that the claimant clocked in at 5:00 am, her usual shift start time. The claimant was required to clock in for work using a timeclock or by accessing the timeclock by computer. Workers can manually edit their entries in the employer's timekeeping system. The supervisor noted that most of the claimant's entries on her timecard were manually entered by the claimant instead of entered by the timeclock or computer. The supervisor then requested a record of the claimant's timecard entries for the last 30 days and security cameras videos for the same period. The supervisor compared the claimant's arrival times and clock-in times and noted many discrepancies. The employer interviewed the claimant and she acknowledged she had edited her timecard entries when she came in late in order to avoid getting in trouble for being late.

Documents in the record show the claimant advised a Division representative that she had been discharged because she was absent on December 19, 2023 because of a sick child, and because there was a discrepancy with her timecard.

The claimant had recently been verbally warned about her poor attendance, but she had not been warned that her job was in jeopardy. The employer considered that the claimant's many adjustment of her timecard was timecard fraud and her actions were egregious enough to warrant discharge instead of warning or another form of discipline. The claimant was advised on December 20, 2023 that she was discharged effective immediately.

### **PROVISIONS OF LAW**

#### **AS 23.20.379 provides in part:**

- (a) An insured worker is disqualified for waiting-week credit or benefits for the first week in which the insured worker is unemployed and for the next five weeks of unemployment following that week if the insured worker...
  - (2) was discharged for misconduct connected with the insured worker's last work.

#### **8 AAC 85.095 provides in part:**

- (d) "Misconduct connected with the insured worker's work" as used in AS 23.20.379(a)(2) means
  - (1) a claimant's conduct on the job, if the conduct shows a willful and wanton disregard of the employer's interest, as a claimant might show, for example, through gross or repeated negligence, willful violation of reasonable work rules, or deliberate violation or disregard of standards of behavior that the employer has the right to expect of an employee; willful and wanton disregard of the employer's interest does not arise solely from inefficiency, unsatisfactory performance as the result of inability or incapacity, inadvertence, ordinary negligence in isolated instances, or good faith errors in judgment or discretion....

### **CONCLUSION**

The claimant in this case was discharged because she falsified her timecard to reflect that she worked more hours than she did.

*The meaning of the term misconduct is limited to conduct evincing such willful disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such*

*degree or 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 his 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. Boynton Cab Co. v. Neubeck, 237 Wis. 249, 296 N.W. 636 (1041) from Lynch, Com. Rev. No. 82H-UI-051, March 31, 1982.*

The employer has the right to expect a worker will correctly report time worked so they are paid properly. The claimant admitted to her supervisor that she had adjusted her timecard so she would not get in trouble for being late for work. The claimant's actions were willful and were a clear disregard of the employer's interests. The employer has shown with sufficient quantity and quality of evidence that the claimant's actions rose to the level of misconduct as it is described in Boynton Cab Co and in regulation 8 AAC 85.095(d).

The Tribunal concludes the claimant was discharged for misconduct in connection with the work. The penalties of AS 23.20.375 are appropriate in this case.


### **DECISION**

The determination issued on January 10, 2024 is **REVERSED**. Benefits are **DENIED** for the weeks ending December 30, 2023 through February 3, 2024. The three weeks are reduced from the claimant's maximum benefits. The claimant may not be eligible for extended benefits under AS 23.20.406-409.

### **APPEAL RIGHTS**

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of rights and procedures is enclosed.

Dated and mailed on March 19, 2024.

  
Rhonda Bunes, Appeals Officer