

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOUGLAS BREES**

Claimant

**APPEAL NO. 07A-UI-08618-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRIDGESTONE/FIRESTONE NORTH**

Employer

**OC: 07-29-07 R: 02  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 4, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 25, 2007. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time lab technician for Bridgestone/Firestone from May 2006 to July 13, 2007. The claimant used a hand-held scanner as part of his job and was eventually asked to sign a document indicating he knew how to run the scanner and understood it. The claimant did not agree with the information contained in the document and asked if he should sign it if he did not agree with it and his supervisor told him “no” but appeared to be angry. Two days later the claimant came in 15 minutes early and Supervisor Pat Twombly came out screaming at the claimant and he did not know why. She told him he was going to be permanently assigned to the hardest of the three jobs even though the three employees were supposed to rotate. The claimant said he still would not sign the policy and he felt sick so he was going home, which he proceeded to do. He called the next day or the day after to speak to the employer and then went in to talk to the employer. The employer made a point of saying he did not sign the hand-held policy and the claimant said he did not understand it but he would sign it then to keep his job and the employer said he walked out and voluntarily quit. The claimant disputed that interpretation of his actions and reiterated that he went home sick but the employer insisted he voluntarily quit and sent him home. The next day the employer notified him that his employment was terminated.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

While the employer told the claimant he voluntarily quit by telling his supervisor he was ill and going home for the day, the claimant testified he was legitimately ill and did not intend to quit his job. Because the employer did not participate in the hearing and contradict his testimony, the administrative law judge finds the claimant was discharged from his employment. The employer has the burden of proving disqualifying misconduct. 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). The evidence provided by the claimant does not rise to the level of job misconduct as that term is defined in the above-stated Administrative Rule. The employer failed to meet its burden. Work-connected misconduct has not been established in this case. Benefits are allowed.

**DECISION:**

The September 4, 2007, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css