

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PAUL V KONETSKI**  
Claimant

**COLLIS INC**  
Employer

**APPEAL 17A-UI-05818-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/14/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 31, 2017, (reference 01) unemployment insurance decision that denied benefits based upon his discharge for insubordination. The parties were properly notified of the hearing. A telephone hearing was held on June 19, 2017. The claimant participated and testified. The employer did not participate.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a machine operator from March 2015, until this employment ended on May 3, 2017, when he discharged.

On May 3, 2017, claimant was presented with a written disciplinary action. Claimant disagreed with the disciplinary action and told his supervisor he would not sign it. Claimant and his supervisor then went to speak to Human Resources about the situation. Claimant explained that he did not agree with the disciplinary action and therefore did not want to sign it. Claimant was told that if he did not sign, he would be terminated. Claimant did not want to sign the document because he felt he had done nothing wrong and believed signing it would indicate he agreed. No one at the employer told him signing the document meant he agreed and he did not ask about this assumption. Claimant could not recall if there was anywhere on the document to write his own notes or indicate he disagreed. Claimant did not believe the employer would actually follow through with its threat to terminate his employment. Claimant continued to refuse to sign the disciplinary document and was terminated.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. Emp't Appeal Bd.*, 531 N.W.2d 645 (Iowa Ct. App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988). Failure to sign a written reprimand acknowledging receipt constitutes job misconduct as a matter of law. *Green v Iowa Dep't of Job Serv.*, 299 N.W.2d 651 (Iowa 1980).

The employer is entitled to establish reasonable work rules and expect employees to abide by them. Claimant refused to sign a written reprimand because he disagreed with it. Claimant assumed signing the document indicated he agreed with it, but this assumption was not based on any information given to him by the employer and he did not ask for clarification on this point. Claimant could not recall if there was any place on the document to indicate he disagreed. Claimant explained to the employer why he disagreed with the document, but was told he still needed to sign it. Claimant was warned a refusal to sign would be grounds for termination, but did not believe the employer would follow through with this warning. Because the document did not indicate by signing the employee agrees with the content, but impliedly indicated receipt of the information, claimant's basis for the refusal was unreasonable. Claimant did not request to reply but went forward with his refusal to sign. Since he was told he must sign the document to continue working, his refusal of the reasonable request was insubordinate and is considered misconduct. Benefits are denied.

**DECISION:**

The May 31, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs