

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY R JACOBSMMA**  
Claimant

**APPEAL NO. 12A-UI-09629-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WOODBURY COUNTY COURTHOUSE  
PERSONNEL**  
Employer

**OC: 07/15/12  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated August 8, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on September 5, 2012. Claimant participated. The employer participated by Mr. J. D. Pellerself, Human Resource Manager.

**ISSUE:**

The issue in this matter is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Terry Jacobsmma was employed by Woodbury County from February 9, 1989 until July 12, 2012 when he was discharged from employment. Mr. Jacobsmma worked as a full-time custodian and was paid by the hour.

The claimant was discharged based upon the employer's initial perception that Mr. Jacobsmma had made errors on paperwork submitted recording his daily work. After reviewing the matter, the employer later determined that it was their belief that Mr. Jacobsmma had not engaged in intentional disqualifying misconduct.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes 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 section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Conduct 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. App. 1992).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in a disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4).

Based upon the evidence in the record the administrative law judge concludes that the burden of proof has not been established that the claimant engaged in disqualifying misconduct. Unemployment insurance benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated August 8, 2012, reference 01, is reversed. Claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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