

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**CRAIG BOESET
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CHARLES CITY IA 50616**

**WINNEBAGO INDUSTRIES
PO BOX 152
FOREST CITY IA 50436-0152**

**Appeal Number: 04A-UI-04347-ET
OC 12-28-03 R 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 14, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 11, 2004. The claimant participated in the hearing. Dee Pierce, Human Resources Supervisor; Rod Norland, Plant Manager; Jason Parcher, Leadperson; and Mike Prehn, Supervisor, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

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 general assembler for Winnebago Industries from

August 12, 2002 to April 1, 2004. On March 31, 2004, the claimant had a disagreement with Leadperson Jason Parcher about an assignment and the claimant told Mr. Parcher he was leaving at 2:30 p.m. Mr. Parcher told the claimant he could not leave because another employee was leaving at 3:10 p.m. for a doctor's appointment. The claimant was needed to run the router but the claimant left at 2:30 p.m. without permission. On April 1, 2004, the claimant was instructed to lay panels and repeatedly refused to do the work as assigned. He told Mr. Parcher he did not want to work 45 to 50 hours per week and did not want to work on the line. Later that day, the employer met with the claimant to issue a written warning and two-day suspension for leaving without permission March 31, 2004, and refusing to perform the work assigned to him April 1, 2004. The claimant refused to sign the warning and the employer told him that his employment would be terminated if he did not sign the warning. The claimant continued to refuse to sign and the employer terminated his employment for insubordination.

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 proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant left early March 31, 2004, after specifically being told he could not do so because another employee had a scheduled appointment and the employer needed the claimant to run the router. While the claimant stated he made a personal appointment the previous night, his testimony on the subject was vague and not particularly credible and it appears he left because he was angry rather than because he truly had an appointment. The following day the claimant refused to perform the task assigned by the employer and stated he did not want to work on the line. The refusal to accept reasonable changes in job duties constitutes job misconduct since the employer has the right to allocate personnel in accordance with its needs and resources. Brandl v. IDJS, (Unpublished, Iowa App. 1986). The claimant's refusal to lay panels was insubordinate and it was not unreasonable for the employer to issue a written warning and suspension because of his actions. The claimant then refused to sign the warning. The failure to acknowledge the receipt of a written reprimand by signing it constitutes job misconduct as a matter of law. Green v. IDJS, 299 N.W.2d 651 (Iowa 1980). While the claimant may have disagreed with the warning and suspension, his failure to sign indicating receipt of the warning violated the employer's policy and the claimant made the decision not to sign even knowing his employment would be terminated if he failed to do so. The claimant's actions in leaving without permission March 31, 2004, and failure to perform his assigned task and sign the written warning April 1, 2004, demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. Consequently, the administrative law judge concludes the employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Benefits are denied.

DECISION:

The April 14, 2004, reference 02, 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.

je/kjf