

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARL E JACKSON JR
Claimant

RYDER INTEGRATED LOGISTICS INC
Employer

APPEAL 19A-UI-05198-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/02/19
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Carl Jackson, Jr., (claimant) appealed a representative's June 27, 2019, decision (reference 03) that concluded ineligibility to receive unemployment insurance benefits after the claimant's separation from work with Ryder Integrated Logistics (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 24, 2019. The claimant participated personally. The employer was represented by Susan Chmelovsky, Hearings Representative, and participated by Olivia Godfrey, Human Resources Coordinator, and Customer Logistics Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 30, 2018, as a full-time material handler. He signed for receipt of the employer's handbook on May 8, 2018. The employer did not issue the claimant any warnings during his employment.

On May 30, 2019, the claimant spoke with his manager about a co-worker's failure to help in the workplace. The claimant was a designated whistle blower and described how the co-worker was using his cellphone when he should have been working.

Later, the co-worker left the manager's office yelling. The co-worker knew from the manager's conversation that the claimant complained about his work ethic. The claimant got off his truck and approached the co-worker. The co-worker told the claimant that he snitched on him. The claimant said, "You're a floater. Sometimes we need help. Your job is to come help us." The co-worker said that he did not have to do anything and asked the claimant what he was going to do. The two were yelling and face to face. The team leader got between them.

The two went to the manager's office. On the way the claimant said, "We can talk about this outside after work." The co-worker identified the words as a threat. The two approached the

manager and the manager stepped between them. The manager sent the co-worker into his office. The claimant attempted to get closer to the co-worker by placing his hand on the chest of the manager to push the manager aside. The manager sent the claimant into the cafeteria.

The manager took the claimant's verbal statement and placed him on suspension. The employer investigated the matter by taking the written statements of six employees, including the claimant. On June 3, 2019, the employer terminated the claimant for violation of the employer's Workplace Violence Prevention Policy. The policy states, "Violence or threats of violence, even if made in jest, are grounds for immediate termination".

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded

the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. He intentionally threatened an employee with violence after work and laid his hand on a manager in an effort to get closer to the threatened employee. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's June 27, 2019, decision (reference 03) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs