

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**ROBERT W ROGERS**  
Claimant

**IPSCO TUBULARS INC**  
Employer

**APPEAL 14A-UI-13211-JCT**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 11/23/14**  
**Claimant: Appellant (2)**

---

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 11, 2014 (reference 01) unemployment insurance decision that denied benefits based upon his separation. The parties were properly notified about the hearing. A telephone hearing was held on January 21, 2015. The claimant participated with witness Jerrie Jackley. The employer participated through Kathy Borkgren and Ben Vogel.

**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: The claimant was employed full time as a machine operator and was separated from employment on November 14, 2014 when he was discharged for sleeping on the job.

The employer operates a facility that requires strict adherence to safety policies and procedures. The claimant worked on the line as a machine operator, in a safety sensitive position. On November 10, 2014 the claimant walked away from his work station, and began to feel lightheaded. He sat down in an office and was observed sleeping for several minutes by Mr. Vogel. The claimant had a history of medical conditions including diabetes, high blood pressure, sleep apnea, and post-traumatic stress disorder. He had previously missed several months of work to tend to his health conditions and had briefed his employer on the medications he was taking upon return. The claimant was unsure what condition or medication caused him to feel unexpectedly lightheaded and testified there was no one nearby to call out to, or notify, when he sat down, fearing he would pass out. Upon discovery by Mr. Vogel, the claimant stated he didn't feel well and was sent home. Because leaving a work station can be dangerous, and based on the circumstances, the employer subsequently discharged the claimant for sleeping on the job.

Prior to separation, the claimant had no prior warnings for similar conduct.

## REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(1)a, (4) 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).

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation.

An employer can reasonably expect that an employee will be working when scheduled.

This is a work-rule misconduct case as opposed to universal misconduct. The employer certainly had a reasonable work rule which disallowed workers from sleeping while on work time. While the claimant undoubtedly violated a work rule, the employer has failed to prove that the violation was intentional or the claimant made some effort to conceal his sleeping from the employer. However, the evidence here is that the claimant and employer were both aware of the claimant's health conditions; which may have contributed to his lightheadedness and ultimately his sleeping on the job.

The employer has proven that the claimant's actions were negligent. The issue is whether the employer has proven that the claimant's actions amounted to "carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional disregard of the employer's interests or of the employee's duties and obligations to the employer."

Nothing in this decision should be interpreted as a condemnation of the employer's right to terminate the claimant for violating this work rule. The work rule was reasonable and the claimant violated it. The employer had a right to follow its work rule. The analysis of unemployment insurance eligibility, however, does not end there. This ruling simply holds that the claimant did not have the requisite level of intent or negligence for his conduct to qualify as misconduct under Iowa law, in part because the conduct for which the claimant was discharged was merely an isolated incident of poor judgment and the employer had not previously warned the claimant about the issue leading to the separation and has not met the burden of proof to establish that claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. Benefits are allowed.

**DECISION:**

The December 11, 2014 (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. The benefits claimed and withheld shall be paid, provided he is otherwise eligible.

---

Jennifer L. Coe  
Administrative Law Judge

---

Decision Dated and Mailed

jlc/can