

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID H BAUR**  
Claimant

**APPEAL NO. 12A-UI-04418-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MAHARISHI UNIVERSITY OF  
MANAGEMENT**  
Employer

**OC: 03/11/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

David Baur (claimant) appealed a representative's April 13, 2012 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with Maharishi University of Management (employer) for conduct not in the best interest of the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 10, 2012. The claimant participated personally. The employer participated by Stan Lamothe, Human Resources Director, and Ken Daley, Exercise and Sport Science Department Head. The claimant offered and Exhibit A was received into evidence.

**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 August 25, 2009, as a full-time cleaner. Later the claimant became a night manager. The claimant signed for receipt of the employer's handbook. The employer did not issue the claimant any warnings during his employment. The employer did talk to the claimant about inappropriate behavior during his employment.

On March 9, 2012, the claimant was frustrated with his coworkers for not performing their work. He did not feel the employer was doing enough to fix the situation. The claimant was voicing his frustration when the Department Head stepped in to stop the conversation that was taking place near the front door. The Department Head pointed his finger at the claimant and asked him to stop. The claimant slapped the Department Head's hand away. The Department Head stopped the meeting and sent the employees back to work. On March 11, 2012, the employer terminated the claimant.

## 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:

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 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 slapped the employer's hand. 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 April 13, 2012 decision (reference 01) 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.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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