

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUSTIN BUSH
Claimant

GRIP-TITE MANUFACTURING CO LLC
Employer

APPEAL 20A-UI-06676-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 4/19/20
Claimant: APPELLANT (1)**

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

STATEMENT OF THE CASE:

On June 23, 2020, the claimant filed an appeal from the June 22, 2020, (reference 01) unemployment insurance decision that denied benefits based on job related misconduct. The parties were properly notified about the hearing. A telephone hearing was held on July 27, 2020. Claimant participated. Employer participated through Curt Schwalen, Director of Operations.

ISSUES:

Did claimant commit job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 1, 2017. Claimant last worked as a full-time lineman. Claimant was separated from employment on April 17, 2020, when he was discharged for dishonesty. The employer received a report that claimant had left from morning break at about 9:59 a.m. and did not return until 10:39 a. m. Claimant was questioned two times by the employer and both times told the employer he did not take extra time for break. Claimant testified that he left for break at 10:02 a.m. and returned from break at 10:20 a.m. Claimant denied he had two conversations with his employer about being late. Claimant's appeal letter stated that he had lied to his employer.

REASONING AND CONCLUSIONS OF LAW:

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). Claimant was not terminated for taking a longer than allowed break but for lying to his employer. The employer decided that the lying was a significant breach of policy and decided to terminate rather than use a progressive disciplinary warning.

I find the employer has proven job related misconduct. The claimant admitted to lying to his employer once. I find that the employer's testimony that claimant lied twice to be credible. The deliberate lie to the employer shows a substantial disregard of the employer's interests. The claimant was discharged for job related misconduct.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 22, 2020, (reference 01) unemployment insurance decision is affirmed. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she

is eligible for such compensation for the week claimed. This decision does not address when claimant is eligible for PUA. For a decision on such eligibility, claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-informatio>



James F. Elliott
Administrative Law Judge

July 31, 2020
Decision Dated and Mailed

je/scn