

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LUCAS JIMENEZ**

Claimant

**APPEAL NO. 12A-UI-13976-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**G & K SERVICES COMPANY**

Employer

**OC: 10/14/12**

**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 2, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on December 27, 2012. Claimant participated through interpreter, Isobel Edwards. Employer participated through senior human resources representative, Sarah Murdoch.

**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: Claimant was employed full time as a general laborer and was separated from employment on October 16, 2012. On that date he was in the cafeteria with a group of employees including his wife Leoni and male employee Kedar. Kedar spoke to Leoni about finding an ID card and they were joking around. Claimant became angry, and threw a plastic sign across the room. Supervisor Aurelio Salgado reported the incident. Claimant admitted he threw the object out of anger because he was upset his wife was talking to Kedar. Kedar was not disciplined for the incident. The employer has a zero-tolerance policy against assault or unacceptable physical contact or intimidating, hostile or offensive work environment or treating others in a disrespectful, abusive or insulting manner. A Spanish language copy of that policy was given to him.

**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 § 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.

Employer has an interest and duty in protecting the safety of all of its employees. Claimant's physical aggression by throwing the plastic sign was in violation of specific work rules and against commonly known acceptable standards of work behavior. This behavior was contrary to the best interests of employer and the safety of its employees and is disqualifying misconduct even without prior warning. Benefits are denied.

**DECISION:**

The November 2, 2012 (reference 01) 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.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/css