

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM J BARKDOLL**  
Claimant

**APPEAL NO. 12A-UI-09147-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRESTVIEW ACRES INC**  
Employer

**OC: 07/01/12**  
**Claimant: Respondent (2-R)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Crestview Acres, filed an appeal from a decision dated July 26, 2012, reference 01. The decision allowed benefits to the claimant, William Barkdoll. After due notice was issued a hearing was held by telephone conference call on August 22, 2012. The claimant participated on his own behalf and with Jeremiah Thompson. The employer participated by Regional Manager Terry Cooper, Administrator Nicole Behrens and Maintenance Coordinator Mark Hidlebaugh.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

William Barkdoll was employed by Crestview from January 27, 2004 until July 2, 2012 as a full-time maintenance supervisor. He received a written warning May 18, 2011, because on a few days before he was supposed to switch over the air system from heating to cooling. He contacted the contractor to perform the service but did not make it known this was an emergency situation. As a result the system was not switched over and the heat became so high the residents suffered a great deal. The facility was fined \$2,000.00 as a result and the claimant was warned his job was in jeopardy.

On October 18, 2011, he was again warned he would have to notify his supervisor any time he left the building. He was on call for maintenance emergencies at all times unless specifically granted vacation.

On June 27, 2012, a management meeting was held which Mr. Barkdoll attended. It was in regard to the problem with the fire alarm panel which was not working properly even though technicians from the contractor had been at the facility to work on it. The claimant said at that meeting if the alarm panel was out of commission for more than four hours a schedule of 15-minute "walk through" intervals would have to be established so the staff could personally look for any fire hazards.

As of June 29, 2012, the problem had not been fully corrected and another technician arrived around 12:30 p.m. The claimant was to accompany all contractors while they were on premises under the provisions of his job description. Instead he left at 2:00 p.m. after telling Administrator Nicole Behrens. At no time did he inform her the technician was still working or tell her what time he had arrived. He did not caution her to implement the 15-minute walk-throughs if the technician had not fixed the problem by 5:00 p.m.

Ms. Behrens said he should not leave because the technician was still there and he refused stating he had "other responsibilities." What he was referring to was picking up his 16-year old son from school because the family intended to go out of town. He did not have permission to be on vacation but left so the employer was unable to contact him all during the rest of that day and the weekend.

When he returned to work on Monday, July 2, 2012, he acknowledged he had left while the technician was still there, had not informed anyone of the deadline to put the walk throughs in place and did not make it known he would be unavailable for the entire weekend. He was discharged at that time.

#### **REASONING AND CONCLUSIONS OF LAW:**

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 claimant was discharged for willfully refusing to meet the requirements of his job. He left a technician on property even though his job description required him to accompany such contractors. He did not notify the employer of the time limit by which the walk-throughs had to be instituted if the alarm system had not been fixed. This jeopardized the safety of the staff and the residents. Mr. Barkdoll seemed to be under the impression it was the responsibility of the administrator to keep track of the technician's location and progress and to "just know" when the walk throughs should be implemented.

He had shown callous disregard for the health and safety of residents and staff in the past, as well exposing the employer to fines for his negligence. He was warned his job was in jeopardy. He willfully refused to perform the essential functions of his job. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of July 26, 2012, reference 01, is reversed. William Barkdoll is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination. division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs