

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLYDE ARRINGTON**  
Claimant

**APPEAL NO: 12A-UI-02761-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OLYMPIC STEEL IOWA INC**  
Employer

**OC: 01/22/12  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Clyde Arrington (claimant) appealed an unemployment insurance decision dated March 13, 2012, reference 02, which held that he was not eligible for unemployment insurance benefits because he was discharged from Olympic Steel Iowa, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 6, 2012. The claimant participated in the hearing. The employer participated through Johanna Mahoney, Human Resources Representative; Bill Fairman, Operations Manager; and Anthony Heerin, Supervisor. Employer's Exhibits One through Three were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**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 employed as a full-time machine operator from January 5, 2010 through January 25, 2012. He was discharged for insubordination after he refused his supervisor's directive to return to work on January 20, 2012. The employer's standard of conduct policy provides that certain violations can result in termination and one of those policies is the interference with the work of other employees. That includes being in areas outside of the employee's work area without proper authorization.

The supervisor saw the claimant out of his work area talking to another employee on January 20, 2012 and asked him if his machine was running. The claimant told him probably not and the supervisor told him to return to work. The claimant argued and said, "I can't talk to Jermaine?" The supervisor told him that he could talk to Jermaine on break and the claimant said, "You can't talk to a grown man that way." The claimant started walking towards his work area but continued arguing and the supervisor told him to come to the office but the claimant

refused. He said, "I'm not going to your office" and the supervisor then told him to go home. Before he left, the claimant dropped off a vacation request in the office and the supervisor asked him whether he knew why he was being sent home. The claimant told him it was "bullshit" and said, "You will hear from my lawyer on Monday."

The claimant had received nine disciplinary warnings prior to his termination with a final warning issued on November 3, 2011. Five of those warnings included his failure to follow instructions and two of the five also included insubordination.

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

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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 to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on January 25, 2012 for repeated insubordination. The administrative law judge must analyze situations involving alleged insubordination by evaluating the reasonableness of the employer's request in light of all circumstances and the employee's

reason for noncompliance. *Endicott v. Iowa Department of Job Service*, 367 N.W.2d 300 (Iowa App. 1985). An employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. See *Woods v. Iowa Department of Job Service*, 327 N.W.2d 768, 771 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The claimant has not provided any legitimate reason for refusing his supervisor's directives to return to work. He had been repeatedly warned for failure to follow the employer's directives and was on a final warning. The claimant's insubordination shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 13, 2012, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until 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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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs