

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PAUL W GRYZLO

Claimant

APPEAL 15A-UI-10747-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RIVER INTL TRUCKS INC

Employer

OC: 08/30/15

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 22, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on October 8, 2015. The claimant participated personally. The employer participated through Ron Fettkether, Manager. Claimant Exhibits One and Two were admitted into evidence.

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: The claimant was employed full time as a journeyman and was separated from employment on August 7, 2015, when he was discharged (Claimant Exhibit Two).

The final incident occurred on August 5, 2015, when the claimant was confronted about a faulty repair he performed earlier, which resulted a \$1400 loss to the employer, and loss of business. The customer involved in the transaction had done \$50,000 in business the prior year with the employer and the relationship with the employer was adversely affected by the claimant's poor repairs. In addition, when confronted, the claimant responded by getting upset, and ultimately, peeling out of the parking lot while operating a company vehicle (Claimant Exhibit One).

The claimant on three occasions had been previously counseled about his conduct, including May 8, 2015, when he was throwing tools around while upset, March 3, 2015, when he had an outburst during a team meeting and was requested to leave the meeting for being disruptive, and in August 2014, for throwing tools. The claimant contended he bottled up a lot of feelings including frustration with pay. He was subsequently discharged.

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.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990) In this case, the claimant had previously been warned on three occasions about his professional conduct, in terms of throwing tools, and having outbursts at work. The claimant also was aware that faulty repair of a vehicle or alternately, peeling out of a parking lot in a vehicle when upset, could be hazardous and a safety concern. The claimant's faulty repairs caused monetary harm to the employer, and his response by being disruptive and unsafely driving a vehicle compounded the impact of the final incident. The claimant knew or should have known his conduct was in disregard of the employer's interests and reasonable standards of behavior that the employer has a right to expect of its employees. Benefits are withheld.

DECISION:

The September 22, 2015, (reference 01) unemployment insurance 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/css