

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN E CASE**  
Claimant

**APPEAL NO. 14A-UI-11176-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BAUER BUILT MANUFACTURING INC**  
Employer

**OC: 09/28/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated October 21, 2014, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on November 17, 2014. The claimant participated. Participating as a witness for the claimant was Mr. Kelly Beaman. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct in connection with his work.

**FINDINGS OF FACT:**

Having considered all the evidence in the record, the administrative law judge finds: John Case was employed by Bauer Built Manufacturing from September 1, 2007 until August 27, 2013 when he was separated by the company because the company had been sold to a new owner. Mr. Case was employed as a full-time welder and was paid by the hour.

On August 19, 2013, Mr. Case sustained a work injury, While off duty due to his work injury, the company was sold to a new owner. All employees were required to submit applications for employment to the John Deere Company, the new owners of Bauer Built Manufacturing, Inc. Although Mr. Case submitted an application to the new owners, he was not hired.

**REASONING AND CONCLUSIONS OF LAW:**

The first question before the administrative law judge is whether the evidence in the record establishes that the claimant quit employment or that he was separated by the employer. Based upon the evidence in the record, the administrative law judge concludes the claimant did not choose to quit employment but was separated by Bauer Built Manufacturing, Inc.

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.

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).

In this case the evidence in the record establishes that the claimant did not choose to quit his employment with Bauer Built Manufacturing but that the claimant's separation took place when the company was sold to new owners and the new owners did not wish to offer the claimant employment with the new company.

In discharge cases, the employer has the burden of proof to establish job-related misconduct. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4).

Based upon the evidence in the record the administrative law judge concludes that the claimant's separation from employment took place when the company business was sold to new owners and the new owners did not wish to re-employ the claimant. The evidence in the record

does not establish misconduct sufficient to warrant the denial of unemployment insurance benefits. There being no evidence to the contrary, the administrative law judge concludes the claimant was separated for no disqualifying reason. Unemployment insurance benefits are allowed providing the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated October 21, 2014, reference 01, is reversed. The claimant was discharged under non-disqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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