

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TYLER J ECKSTEIN**  
Claimant

**MI-T-M CORPORATION**  
Employer

**APPEAL 20A-UI-04050-HP-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Claimant Tyler Eckstein filed an appeal from the May 11, 2020 (reference 01) unemployment insurance decision that denied benefits based upon his discharge from employment. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for May 29, 2020 at 9:00 a.m. Eckstein appeared and testified. Mollie Delagrave, the human resources manager for MI-T-M corporation ("MI-T-M"), appeared and testified on behalf of the employer. I took administrative notice of Eckstein's unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUE:**

Was the Claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Eckstein commenced his employment with MI-T-M as a utility employee in the powder line area on November 5, 2018. Eckstein worked for MI-T-M full-time, until his discharge on March 31, 2020. A week before his discharge Eckstein started working as a backup painter, as part of his utility work. If a full-time painter was gone, Eckstein would step up and paint for the painter in the paint booth.

On or about March 31, 2020, Eckstein was painting for MI-T-M. The item Eckstein was painting had an axle with a cover over it to prevent paint from getting on the axle. Eckstein removed the cover, painted the item, and put the cover on the axle after painting. Mitch Bradley, a lead worker for MI-T-M, observed Eckstein remove the cover and paint the item. Normally Cody Keller supervised the line where Eckstein worked, but that day Bradley was supervising two areas. Eckstein testified Bradley instructed him to blow off the paint with an air blower and shook his head. Eckstein reported he blew off the paint while the line was still moving, causing himself a little extra work, and then he put back on the axle cover. Eckstein testified no part was damaged and he did not slow down production. Eckstein relayed he only removed one cover off an axle on March 31, 2020.

Delagrave testified Bradley told her the paint stuck to the axle cover when it was in the oven and it had to be removed with a wire wheel. Eckstein reported it takes ten seconds to remove the paint with the wire wheel. Delagrave reported Eckstein's actions caused MI-T-M to incur additional labor to remove the paint from the axle.

Shortly after the incident Bradley brought Eckstein a disciplinary form. Eckstein refused to sign it and Bradley put the form on Bonert's desk. Eckstein continued to work that day painting parts. Eckstein did not remove any other axle covers during his shift.

The next day, April 1, 2020, Delagrave, Otis Bonert, the manager over the powder line, and John Lembezeder, the director of fabrication, called Eckstein into a meeting at the start of his shift. Delagrave, Bonert, and Lembezeder discharged Eckstein for destruction of company property. Eckstein asked if there was a different position he could take because he did not want to be terminated and relayed Delagrave, Bonert, and Lembezeder told him an employee who damages property could be immediately terminated under the handbook.

Delagrave testified Eckstein knew the cover was to prevent paint from getting on the axle and he willfully and knowingly removed it and put the cover back on to hide it, requiring someone else to remove the paint using a wire wheel because the paint was baked on. Delagrave testified during training Eckstein was instructed not to remove the axle covers while painting. She reported each axle was covered when it arrived at his work station. Delagrave testified she was uncertain how Eckstein would know he would be discharged, but he would know removing the cover and painting the item would lead to discipline on some level.

Eckstein testified he was trained to remove the cover while painting. Eckstein reported Jason Berry, Kevin Pyle, and Keller, his normal lead worker, had all removed axle covers while painting. He reported all the painters had done it; it was a prank. Eckstein reported the prank was for the other utility workers because when the item came out of the oven, they would have to use more muscle to remove it. Eckstein testified he knew he was not supposed to remove the axle cover and paint the item and put the axle cover back on, but the trainers had done it and he thought it was alright. Eckstein testified he did not have malicious intent.

Delagrave testified the employee handbook contains a policy about destruction of company property. Eckstein signed an acknowledgement that he received a copy of the policy on March 13, 2019. The policy provides that any violation may result in disciplinary action from a verbal warning to immediate termination, dependent on what is appropriate.

Delagrave testified she believed Eckstein's' actions were intentional because when she and Bonert spoke to him he said it was just supposed to be a prank and he acknowledged he understood why it was wrong. Delagrave reported attended the fact finding interview and reported Eckstein relayed he removed the cover as a prank. This is the first incident and Delagrave testified Eckstein might not have known his job was in jeopardy.

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

Under Iowa Code section 96.5(2)a,

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . .

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 disqualification shall continue 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 Iowa Administrative Code 24.31(1)a, defines the term "misconduct" 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 Iowa Legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 558 (Iowa 1979).

871 Iowa Administrative Code 24.32(4) also provides,

*Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. 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. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

And 871 Iowa Administrative Code 24.32(8) provides:

*Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

The employer bears the burden of proving the employee engaged in disqualifying misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 11 (Iowa 1982) The issue is not whether the employer made a correct decision in separating the claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262, 264 (Iowa Ct. App. 1984)


Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits; such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806, 808 (Iowa Ct. App. 1984) The definition of misconduct in the administrative rule focuses on deliberate, intentional, or culpable acts by the employee. *Id.* When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* at 808-09. Negligence

does not constitute misconduct unless it is recurrent in nature; a single act is not disqualifying unless it is indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731, 735 (Iowa Ct. App. 1986) Additionally, poor work performance is not misconduct in the absence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211, 213 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 666-69 (Iowa 2000) What constitutes misconduct justifying termination of an employee and what misconduct warrants a denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679, 680 (Iowa Ct. App. 1988) Instances of poor judgment are not misconduct. *Richers v. Iowa Dep't of Job Serv.*, 479 N.W.2d 308, 312 (Iowa 1991); *Kelly v. Iowa Dep't of Job Serv.*, 386 N.W.2d 552, 555 (Iowa Ct. App. 1986)

In this case I find the conduct for which Eckstein was discharged was an isolated incident of poor judgment. Eckstein testified he blew off the paint before it went in the oven and the line did not stop when he removed the paint. MI-T-M had not previously warned Eckstein about the issue which lead to his separation. MI-T-M was not met its burden to prove Eckstein acted deliberately or with recurrent negligence in violation of a company policy, procedure, or prior warning. MI-T-M has failed to establish any intentional and substantial disregard of its interest which rises to the level of willful misconduct. As such, benefits are allowed, provided Eckstein is otherwise eligible. MI-T-M may be charged for benefits paid.

**DECISION:**

The May 11, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed. The employer has not established the claimant was discharged for misconduct for a disqualifying reason. Benefits are allowed provided the claimant is otherwise eligible.



Heather L. Palmer  
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June 30, 2020  
Decision Dated and Mailed

hlp/scn