

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAYELL O WOODS
Claimant

TPI IOWA LLC
Employer

APPEAL 15A-UI-08667-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 23, 2015, (reference 01) unemployment insurance decision that denied benefits based upon misconduct. The parties were properly notified about the hearing. A telephone hearing was held on August 24, 2015. Claimant participated. Employer participated through human resources coordinator, Danielle Williams. Employer's Exhibit 1 was received.

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: Claimant was employed full time as a production employee from October 23, 2013, and was separated from employment on July 7, 2015, when he was terminated.

On July 3, 2015, claimant wrote inappropriate comments about his manager on a type of paper that is used in the workplace. The first paper stated, "I don't give a fuck." The second paper stated, "I'm doing an experiment. Josh + Barb (bitch) = Favoritism." Josh was claimant's supervisor and Barb was his manager. Claimant showed the papers to his co-worker. Claimant's co-worker brought the papers to a supervisor.

On July 7, 2015, claimant was terminated for violating employer's work rules. The work rules prohibit abusive language and use of slurs or behavior that would be offensive. Employer's termination policy warns that use of vulgarity or profanity is a terminable offense. Claimant received a copy of these rules and policies in the employee handbook upon hire. Although claimant did not recall the specific policies and rules at the time of his termination, he was aware it was inappropriate to write on a piece of paper that his female supervisor was a "bitch."

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.

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).

"The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made." *Myers v. Emp't Appeal Bd.*, 462 N.W.2d 734 (Iowa Ct. App. 1990).

Claimant's writing is considered disqualifying misconduct, even without prior warning. Although claimant claims he threw the papers in the garbage, it is of little consequence what he did with the papers. The point is that he wrote the offensive comments and showed them to his co-worker in violation of employer's rules. Claimant engaged in the conduct with the knowledge it was inappropriate for the workplace.

DECISION:

The July 23, 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.

Christine A. Louis
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Decision Dated and Mailed

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