

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CHRISTOPHER M MORRIS
Claimant

APPEAL NO: 18A-UI-06446-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREAT RIVER MEDICAL CENTER
Employer

OC: 05/20/18
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 8, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 28, 2018. The claimant participated in the hearing. Michelle Neally, Human Resources Generalist and Ann Brotherson, Director of Nutrition Services, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time chef for Great River Medical Center from June 29, 2009 to May 23, 2018. He was discharged for continued violations of the employer's customer service values.

On April 14, 2017, the employer issued the claimant a written warning for inappropriate behavior toward customers and staff. On May 8, 2017, the claimant received a final written warning for his behavior toward customers and staff. On May 21, 2018, the employer terminated the claimant's employment for several incidents of inappropriate behavior toward customers and staff.

The employer cited several incidents during the claimant's last year of employment that led to his termination. The claimant snatched a plate of food from the hand of a co-worker with a customer and when they asked why they could not eat the food, the claimant would not answer. They found his behavior rude and the lack of communication confusing. On another occasion, a co-worker asked the claimant what type of beef was in the hot entre in front of several customers in the café and the claimant ignored her. When she asked again he replied, "It's beef" in a rude manner and walked away. The claimant also pushed that co-worker out of the way to put food in the hot entre well. Another time that co-worker asked the claimant if there

were more potatoes and he did not respond but pushed a cart with potatoes on it behind her without saying anything.

On May 21, 2018, a co-worker went to the director with two customer complaints about the claimant in the cafeteria. Customers referred to the claimant as “rude” and “an ass.” Customers had asked the claimant about the hot entre for that night and he refused to respond. The same co-worker also complained the claimant was throwing pizza pans around in the deli the previous Wednesday. On May 22, 2018, another co-worker reported to the director that the claimant slammed the door of the freezer open and the door barely missed hitting her in the face. She said, “Hey. Dang” and the claimant ignored her.

The employer met with the claimant May 23, 2018, to notify him of his termination and the claimant decided to voluntarily quit rather than face termination.

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 section 96.5(2)a provides:

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.

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 employer has the burden of proving disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1).

The claimant was considered a supervisor and was in a customer service position for the employer. Consequently, the employer expected him to provide good customer service. Instead, the claimant was exceptionally rude to customers as well as staff. His behavior was inappropriate and unprofessional and did not improve despite the fact he received a written and final written warning about his attitude and conduct toward others.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The June 8, 2018, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn