

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD WYATT**  
Claimant

**APPEAL NO: 10A-UI-06467-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ILLOWA CULVERT & SUPPLY CO**  
Employer

**OC: 10-18-09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 20, 2010, reference 02, 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 4, 2010. The claimant participated in the hearing. Carl Greve, Vice-President, 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 laborer for Illowa Culvert & Supply from September 1, 2009 to March 23, 2010. His hours were 6:00 a.m. to 4:30 p.m. On March 23, 2010, two employees reported the claimant went into the break room, threw his coffee and left the parking lot driving fast and reckless while giving the finger March 22, 2010, and other employees believed he quit his job. He was upset with Owner/President Jeff Greve because he felt Mr. Greve was unhappy with another employee but took it out on the claimant. He stated Mr. Greve said his work “was crap” and the claimant became “irritated” and “mad” and said he was going to look for another job. On March 23, 2010, the claimant returned and was telling other employees he did not need the job and at 6:05 a.m. He pulled out a pair of brass knuckles and told his foreman and other employees if Mr. Greve “got in his face” he was going to beat him up. The foreman told Mr. Greve the claimant had brass knuckles and what he said and Mr. Greve called the Sherriff’s Department and two deputies arrived. Mr. Greve then called the claimant to his office and terminated his employment for threatening him and the deputies escorted the claimant from the employer’s property.

**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:

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.

871 IAC 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.

The claimant testified he brought brass knuckles to work and while that may not be illegal or disqualifying in and of itself, it is enough to find disqualifying job misconduct when coupled with a threat toward Mr. Greve and the fact he was "irritated" and "mad" at him. Consequently, 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 April 20, 2010, reference 02, 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs