

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LIIBAAN N GEELLE

Claimant

WELLS ENTERPRISES INC

Employer

**CASE NO. 21IWDUI2089
IWD APPEAL NO. 21A-UI-07638**

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/29/2020
Claimant: Appellant (2)**

Iowa Code § 96.5(2)(a) – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Liibaan Geelle filed a timely appeal from a March 8, 2021, unemployment insurance decision that denied unemployment benefits because he left employment voluntarily on November 30, 2020. A telephone hearing was held May 3, 2021. The parties were properly notified of the hearing. Geelle appeared and testified. He was self-represented. Wells Enterprise was represented by Jackie Boudreaux. Stacey Roupe, human resources service center representative, testified.

Official notice was taken of the documents in the administrative file. The parties did not submit additional exhibits.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Liibaan Geelle was employed as a full-time CAT B helper at Wells Enterprises (Wells). Geelle began employment on November 5, 2018. His last shift at Wells was November 30, 2020. (Roupe

testimony.) Geelle's direct supervisor was Ryan Wright. Geelle applied for many other jobs at Wells, but Wright did not want him to leave his assembly line job. On November 30, 2020, Wright called Geelle into his office and told him he was fired. Geelle left work because Wright told him he was fired. (Geelle testimony.)

An employee from Wells HR contacted Geelle after Wright told him he was fired. The HR employee said he had not been fired, and HR was informed Geelle did not want his job. Geelle did not receive other calls from HR. (Geelle testimony.)

Roupe never spoke with Geelle in person or on the phone. She acknowledged Wright is a line supervisor at Wells and was employed at Wells at the time of the administrative hearing. Wright has the ability to hire and fire employees with HR approval. Roupe spoke to Wright after Geelle's final shift, and Wright said Geelle "did not want to return." Roupe reviewed Geelle's employee records and noted Geelle had applied for six positions at Wells between February and October 2020. Wells did not give or send Geelle any paperwork related to his termination, and Wells did not have any record of Geelle committing misconduct. (Roupe testimony.)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 8, 2021, unemployment insurance decision that found Geelle ineligible for unemployment insurance benefits is reversed.

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 Administrative Code rule 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 proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment, an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy. However, if the employer fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Geelle provided credible testimony he was fired from Wells on November 30, 2020, and Wells did not provide testimony or evidence from Wright. Geelle said Wright told him he was fired on November 30, so he left the facility. If Wright did not have the authority to fire employees without HR approval, Wright may have reported Geelle's departure as a voluntary quit. Roupe

corroborated Geelle's testimony by acknowledging that he had applied for several other jobs at Wells.

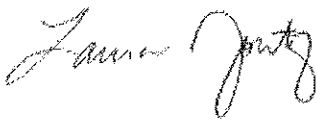
Wright is still employed at Wells and likely could have testified at the administrative hearing. Wells failed to present any credible evidence Geelle voluntarily quit his job on November 30, and Geelle provided credible testimony he was terminated on November 30. Therefore, I find Geelle was terminated on November 30. Roupe had no direct knowledge of Geelle's termination, but she acknowledged there was no evidence of misconduct in Geelle's employee file.

The employer must show the final incident that resulted in the discharge was a current act of misconduct. Iowa Admin. Code r. 871-24.32(8); *see Greene v. Emp't Appeal Bd.*, 426 N.W.2d 659 (Iowa Ct. App. 1988). Wells did not provide any evidence Geelle committed misconduct on November 30 or any time prior to November 30.

Wells did not satisfy its burden of proof required to disqualify Geelle from unemployment insurance benefits. Because Wells failed to establish disqualifying misconduct, benefits are allowed provided Geelle is otherwise eligible.

DECISION:

The March 8, 2021, unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.



Laura Jontz
Administrative Law Judge

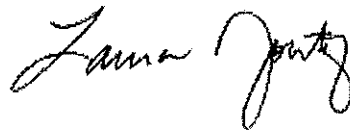
May 11, 2021

Decision Dated and Mailed

CC: Liibaen Geelle, Claimant (By First Class Mail)
Wells Enterprises Inc c/o TALX UCM SVCS INC, Employer (By First Class Mail)
Nicole Merrill, IWD (By Email)
Joni Benson, IWD (By Email)

Case Title: GEELLE V. WELLS ENTERPRISES INC
Case Number: 21IWDUI2089
Type: Order

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Laura Jontz", written in a cursive style.

Laura Jontz, Administrative Law Judge