

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY L STRODTMAN
Claimant

APPEAL 22A-UI-06793-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LE CLAIRE INVESTMENT INC
Employer

**OC: 01/23/22
Claimant: Appellant (2)**

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

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On March 19, 2022, Randy Strodtman (claimant/appellant) filed a timely appeal from the Iowa Workforce Development (“IWD”) decision dated March 17, 2022 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding that he was discharged on March 3, 2022 for wanton carelessness in performing work.

A telephone hearing was held on April 27, 2022. The parties were properly notified of the hearing. The claimant participated personally. Le Claire Investment Inc (employer/respondent) participated by HR Director Brandy Thompson. Official notice was taken of the administrative record.

ISSUES:

- I. Was there a disqualifying separation from employment?

FINDINGS OF FACT:

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

Claimant began working for employer on August 21, 1990. Claimant worked for employer most recently as a full-time operator. Claimant’s immediate supervisor most recently was Ken Horn. The last day claimant worked on the job was March 3, 2022. Claimant was discharged at that time.

The most recent incident leading to discharge occurred on February 28, 2022. On that date claimant failed to place wedges under his loader, put on a hard hat, empty his bucket, and close the cab door after leaving the loader. These were violations of employer rules designed to ensure compliance with the Mining Safety and Health Act requirements.

Claimant violated these rules because he was experiencing sudden intestinal distress and had to urgently use the bathroom. Claimant feared if he did not rush to the bathroom without delay that he would soil himself. As a result he did not empty his bucket, put on a hard hat, close the loader door, and place wedges under the loader prior to rushing to the bathroom. Claimant called in sick to work the following day due to continuing symptoms.

Management observed the violations on February 28, 2022 and confronted claimant. Employer decided to discharge claimant because of the number of safety violations and because of prior performance and safety-related issues. The most recent prior documented disciplinary incident was in May 2020 when claimant damaged a customer's vehicle while loading a product into it.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated March 17, 2022 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding that he was discharged on March 3, 2022 for wanton carelessness in performing work is REVERSED.

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 provides in relevant part:

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 bears the burden of proving that a claimant is disqualified from receiving benefits because of substantial misconduct within the meaning of Iowa Code section 96.5(2). *Myers v. Emp't Appeal Bd.*, 462 N.W.2d 734, 737 (Iowa Ct. App. 1990). 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). What constitutes misconduct justifying termination of an employee and what

misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

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 (Iowa Ct. App. 1984). The focus is on deliberate, intentional, or culpable acts by the employee. When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman, Id.* In contrast, 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. *Newman, Id.*


When reviewing an alleged act of misconduct, the finder of fact may consider past acts of misconduct to determine the magnitude of the current act. *Kelly v. Iowa Dep't of Job Serv.*, 386 N.W.2d 552, 554 (Iowa Ct. App. 1986). However, conduct asserted to be disqualifying misconduct must be both specific and current. *West v. Emp't Appeal Bd.*, 489 N.W.2d 731 (Iowa 1992); *Greene v. Emp't Appeal Bd.*, 426 N.W.2d 659 (Iowa Ct. App. 1988).

Because our unemployment compensation law is designed to protect workers from financial hardships when they become unemployed through no fault of their own, we construe the provisions "liberally to carry out its humane and beneficial purpose." *Bridgestone/Firestone, Inc. v. Emp't Appeal Bd.*, 570 N.W.2d 85, 96 (Iowa 1997). "[C]ode provisions which operate to work a forfeiture of benefits are strongly construed in favor of the claimant." *Diggs v. Emp't Appeal Bd.*, 478 N.W.2d 432, 434 (Iowa Ct. App. 1991).

The administrative law judge finds employer has not carried its burden of proving claimant is disqualified from receiving benefits because of a current act of substantial misconduct within the meaning of Iowa Code section 96.5(2). The most recent incident leading to discharge is best characterized as a "failure in good performance as the result of...incapacity," which is not deemed misconduct under applicable law. The prior incidents which contributed to the decision to discharge were not current acts and so are not disqualifying. Benefits are therefore allowed, provided claimant is not otherwise disqualified or ineligible.

DECISION:

The decision dated March 17, 2022 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding that he was discharged on March 3, 2022 for wanton carelessness in performing work is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible. Employer's account is subject to charge.



Andrew B. Duffelmeyer
Administrative Law Judge

April 29, 2022
Decision Dated and Mailed

abd/abd