

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN D TRAXLER
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 22A-UI-02385-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/12/21
Claimant: Respondent (2)**

Iowa Code § 96.5(2)a – Discharge from Employment/Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On January 7, 2022, employer Team Staffing Solutions, Inc., filed an appeal from the January 3, 2022 (reference 01) unemployment insurance decision that allowed benefits after a separation from temporary employment. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Friday, February 18, 2022. The claimant, Kevin D. Traxler, did not appear or participate in the hearing. The employer, Team Staffing Solutions, Inc., participated through Sarah Fiedler, Risk Manager. Employer's Exhibit 1 was received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the claimant discharged from employment for disqualifying, job-related misconduct?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Team Staffing Solutions, Inc., on March 12, 2018. Throughout his employment, he worked full-time hours as an assembler assigned to one client site. The employer ended claimant's employment on December 13, 2021, when it discharged him.

Claimant had a history of inappropriate and aggressive behavior in the workplace. The final incident occurred between December 9 and December 13, 2021. On December 9, an employee was pushing a cart and unintentionally came close to claimant's body with the cart. Claimant positioned himself in the path of the cart so the cart would hit him. He then became irate and began screaming at the employee. Supervisors Danette and Dan intervened and sent claimant home. They instructed claimant to get himself under control return the following Monday. Claimant was made aware that his job would be in jeopardy if he behaved that way again.

The following Monday, December 13, claimant came into work and immediately began yelling at his supervisor and making about wanting to "lash out" at other people. (Employer's Exhibit 1) He was angry that he had been sent home the week before, and he was yelling that the

employer was picking on him. Management at the client site determined it was a safety risk to continue allowing claimant to work at the site. Additionally, the employer's on-site admin Steve Janek determined claimant should be separated from employment.

Claimant was aware that his job would be in jeopardy if he engaged in hostile and aggressive conduct in the workplace. In addition to the warning on December 9, claimant was sent home from work in October 2021 after using profanity and aggression toward a supervisor. Additionally, the employer's handbook informed him that if he was removed from a client site for any reason, the employer could also end his employment. Claimant received a copy of this handbook when he was hired.

The administrative record reflects that claimant has received no unemployment benefits since filing a claim with an effective date of December 12, 2021. The administrative record also establishes that the employer did participate in the fact-finding interview. Fiedler personally participated in the fact-finding interview that occurred on December 29, 2021. Traxler participated in the fact-finding interview as well.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for disqualifying, 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).

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). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

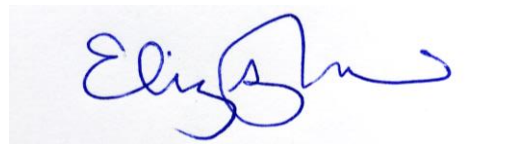
Here, the employer has presented substantial and credible evidence that the claimant made vague threats toward his coworkers and yelled at a supervisor on his last day of work. This behavior was immediately following a workday on which claimant was sent home for aggressive behavior toward a coworker with instructions to improve his attitude and a warning that he would be discharged if he did not do so. Claimant's behavior was a detriment to his workplace, and the employer has a vested interest in protecting both the physical safety and mental and emotional security of its workforce. The employer has established claimant was discharged for disqualifying, job-related misconduct. Benefits are withheld.

As claimant has not received any unemployment insurance benefits since separating from this employer and opening his claim for benefits, the issues of overpayment, repayment, and chargeability are moot.

DECISION:

The January 3, 2022 (reference 01) unemployment insurance decision is reversed. 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.

The issues of overpayment, repayment, and chargeability are moot.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

March 9, 2022
Decision Dated and Mailed

lj/lj