

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANEL SALMAN**  
Claimant

**TARGET CORPORATION**  
Employer

**APPEAL 25A-UI-00182-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/08/24  
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a – Discharge from Employment

**STATEMENT OF THE CASE:**

On January 8, 2025, employer Target Corporation filed an appeal from the December 30, 2024 (reference 01) unemployment insurance decision that allowed benefits, determining claimant Anel Salman was dismissed from employment on November 30, 2024 and the employer failed to establish he was dismissed for any disqualifying reason. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on January 13, 2025. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 10:00 a.m. on Monday, January 27, 2025. Claimant Anel Salman did not appear for the hearing. Employer Target Corporation participated through Katherine Tickal, HR Business Partner; Dennis Mcneal, Outbound Continuous Improvement Manager; and Justin Gaede, Flex Operations Manager. Employer's Exhibits 1, 2, 3, 4, 5, 6, and 7 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Whether the employer discharged claimant for any disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment on June 29, 2021. He worked full-time hours for the company as a warehouse worker. Claimant's employment ended on November 30, 2024 when the employer discharged him for accruing four corrective actions in a rolling twelve-month period.

The final incident occurred on November 24, 2024. McNeal observed claimant leaning against a trashcan for between 15 and 20 seconds. He then saw claimant's coworker say claimant's name, which seemed to startle claimant. McNeal approached claimant and asked him if he was just sleeping, and claimant admitted he was. Claimant then said that he was bored.

McNeal reported this incident to Gaede, who held a "Seek to Understand" meeting with claimant. During that meeting, claimant admitted that he had been leaning against a trashcan sleeping. He said he was bored and that it was a slow work day. This was claimant's fourth disciplinary action in a rolling twelve-month period, so the employer discharged him pursuant to its policy that four incidents within a rolling twelve-month period result in an employee's discharge.

The employer had issued claimant three prior disciplinary actions during the preceding 365 days. These included an April 14, 2024 warning due a “no-call/no-show” absence; an April 22, 2024 warning for using a cellphone while on the mezzanine; and a September 9, 2024 final warning for failing to behave in a respectful manner.

Claimant opened the claim for unemployment insurance benefits effective December 8, 2024. He has filed six weekly continued claims for benefits, most recently for the week ending January 18, 2025. Claimant has received benefits in the amount of \$3,612.00. Iowa Workforce Development held a fact-finding interview on December 20, 2024. The employer did not participate in the fact-finding interview.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

Iowa Code section 96.5(2)(a) and (d) provide:

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 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...

d. For the purposes of this subsection, “*misconduct*” means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee’s contract of employment. Misconduct is 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 even 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. Misconduct by an individual includes but is not limited to all of the following:

(1) Material falsification of the individual’s employment application.

(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

(3) Intentional damage of an employer’s property.

(4) Consumption of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in a manner not directed by the manufacturer, or a combination of such substances, on the employer’s premises in violation of the employer’s employment policies.

(5) Reporting to work under the influence of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in an off-label manner, or a combination of such substances, on the employer's premises in violation of the employer's employment policies, unless the individual is compelled to work by the employer outside of scheduled or on-call working hours.

(6) Conduct that substantially and unjustifiably endangers the personal safety of coworkers or the general public.

(7) Incarceration for an act for which one could reasonably expect to be incarcerated that results in missing work.

(8) Incarceration as a result of a misdemeanor or felony conviction by a court of competent jurisdiction.

(9) Excessive unexcused tardiness or absenteeism.

(10) Falsification of any work-related report, task, or job that could expose the employer or coworkers to legal liability or sanction for violation of health or safety laws.

(11) Failure to maintain any license, registration, or certification that is reasonably required by the employer or by law, or that is a functional requirement to perform the individual's regular job duties, unless the failure is not within the control of the individual.

(12) Conduct that is libelous or slanderous toward an employer or an employee of the employer if such conduct is not protected under state or federal law.

(13) Theft of an employer or coworker's funds or property.

(14) Intentional misrepresentation of time worked or work carried out that results in the individual receiving unearned wages or unearned benefits.

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).

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. 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.

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

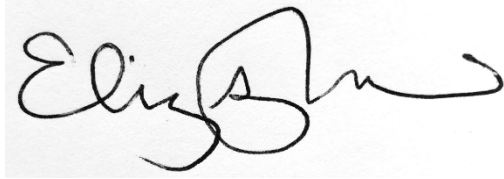
The conduct Target discharged Mr. Salman for merely an isolated incident of poor judgment. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without this warning, an employee has no reasonable way of knowing that he needs to change his behavior at work to preserve the employment. A warning for attendance, safety, or attitude at work is not similar to a warning for loafing, and the employer's simple accrual of a certain number of warnings counting towards discharge does not establish repeated negligence or deliberation. There is no evidence in the record that Target had previously warned Mr. Salman for loafing on the job, and there is no indicating Mr. Salman was aware his job was in jeopardy for loafing.

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 illegal. However, if the employer does not meet its burden of proving disqualifying, job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. Such is the case here. The employer discharged Mr. Salman because Mr. Salman accrued four warnings within one year, and those warnings were not related to one another. This is not disqualifying misconduct. Benefits are allowed, provided claimant is otherwise eligible.

Because Mr. Salman remains eligible for benefits, the issues of overpayment and chargeability are moot.

**DECISION:**

The December 30, 2024 (reference 01) unemployment insurance decision is affirmed. The employer discharged claimant from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. The issues of overpayment and chargeability are moot.

A handwritten signature in black ink, appearing to read "Elizabeth Johnson", written over a light gray rectangular background.

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Elizabeth A. Johnson  
Administrative Law Judge

January 28, 2025  
Decision Dated and Mailed

lj/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.