

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW D LAMBERT
Claimant

APPEAL 15A-UI-13805-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT FOODS GROUP INC
Employer

**OC: 10/18/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 11, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 7, 2016. Claimant participated. Employer did not participate.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a service/production employee from October 4, 2006, and was separated from employment on July 5, 2015, when he was discharged.

The employer has a policy that any mistake on paperwork is a CP violation. If there is a CP violation, the employee receives a write up. The employer has strict paperwork accuracy policy because of quality control. Claimant worked for nine years and was able to complete his work accurately a majority of the time.

On July 5, 2015, claimant was discharged because of minor mistakes on his paperwork, such as putting a label in the wrong place. The employer followed their disciplinary procedure according to their policy. The employer gives employees three write ups and then after another violation, they are discharged. Claimant had already received three write ups when he had another paperwork error violation for putting a label in the wrong place. Claimant was aware his job was in jeopardy. The first write up was not paperwork related (claimant was written up for bringing the wrong meat to the line), but the second and third write ups were paperwork related. Other employees would get written up for paperwork violations if they had issues with their paperwork.

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. Benefits are denied.

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). 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). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

The employer has presented substantial and credible evidence that claimant continued to make paperwork errors after having been warned. The employer is entitled to establish reasonable work rules and expect employees to abide by them. The employer required claimant to

maintain accurate paperwork for quality control. On multiple occasions, claimant's paperwork contained errors. Claimant was warned on two separate occasions for having paperwork errors. Prior to his final paperwork error, claimant was aware his job was in jeopardy. After his third write up, claimant had another paperwork error and he was discharged. Since others have also been warned for similar conduct, disparate application of the policy is not evident. Claimant's repeated failure to accurately perform his job duties after having been warned is evidence of negligence or carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. See Iowa Admin. Code r. 871-24.32(1)a. Benefits are denied.

DECISION:

The December 11, 2015, (reference 01) unemployment insurance 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.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs