

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**WILLIAM J MURRAY**  
Claimant

**APPEAL NO. 10A-UI-15395-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXIDE TECHNOLOGIES**  
Employer

**OC: 10-03-10**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 28, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 21, 2010. The claimant did participate. The employer did participate through Tim Guyer, Human Resources Manager.

**ISSUE:**

Was the claimant discharged due to job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a janitor, full-time, beginning September 26, 1986, through October 5, 2010, when he was discharged. Around 2:00 a.m. on October 1, 2010, the claimant was running the sit-down floor scrubber machine when he backed it into a glass panel covering the fire alarm system panels. The glass panel broke as well as the red tail-light on the sit-down floor scrubber. The accident was witnessed by another employee, Gary Chapman, who reported the incident to the supervisor, Greg Hawker. When Mr. Chapman heard the glass panel break, he turned and looked at the area when the sound came from and he saw the claimant running the machine and the claimant looked back at him and mouthed the word “oops.” Mr. Hawker went to the claimant to ask him about the accident and the claimant denied having an accident or knowing anything about the damage to both the glass alarm panel and the floor scrubber machine. After the claimant’s denial of the accident, Mr. Hawker went to another supervisor, Mr. Loykes, and they jointly conducted an investigation. Both noted the fresh water marks on the floor made by the floor scrubbing machine near the broken fire alarm panel showing that the floor scrubber had been in the vicinity recently. They also found red plastic on the floor by the broken panel that matched up to the damaged red plastic tail light on the floor scrubber machine. They also considered the eyewitness testimony of Mr. Chapman. Mr. Chapman’s account made it clear that the claimant knew he had hit the panel and the machine, by his mouthing the word “oops” to Mr. Chapman.

On May 14, 2010, the claimant was running the floor scrubber machine when he ran over a cable, pulling it out of a robotic machine, requiring costly repairs be made to the machine. The claimant was warned at that time to be more careful when running the floor scrubber machine.

**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.

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.

871 IAC 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The employer has established that the claimant had the accident on October 1, 2010 and that he lied to the employer in order to cover up his involvement. The claimant owed it to his employer to be honest about what occurred and his involvement in the incident. The employer was justified in relying on the physical evidence of the accident: the broken red plastic tail light that matched up to the red plastic found by the accident and Mr. Chapman's statement that the claimant mouthed the word "opps," clearly indicating he knew that the accident had occurred. The claimant then lied about the accident to the employer in order to avoid further discipline. The fact that the claimant had been warned about a previous accident in May, just some five months earlier, makes clear that he was trying to avoid further disciplinary action by lying about

the current incident. The claimant perpetuated the lie at the hearing in an attempt to obtain unemployment insurance benefits. The claimant owed it to his employer to be honest about the accident. He was not honest. The employer's evidence establishes misconduct sufficient to disqualify the claimant from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The October 28, 2010 (reference 01) 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/kjw