

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLINT H WILLIAMSON**  
Claimant

**APPEAL NO. 11A-UI-14244-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLMAN DYNAMICS INC**  
Employer

**OC: 10/02/11  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Clint Williamson, filed an appeal from a decision dated October 21, 2011, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 2, 2011. The claimant participated on his own behalf and was represented by Jenna Green. The employer, Wellman Dynamics, did not provide a telephone number where a witness could be contacted and did not participate.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Clint Williamson was employed by Wellman from September 20, 2008 until September 27, 2011 as a full-time production worker. He was off work on FML from April 3 until August 5, 2011, for migraine headaches.

On September 20, 2011, he reported for work while suffering a migraine. He had taken his preventative medication two hours before arriving at work, but it had not taken effect. Before he could request the day off, Supervisor D.J. Barnett assigned to work in an area that was very noisy. The claimant refused because the noise would exacerbate his migraine. Mr. Barnett sent him home. Mr. Williamson went to the doctor that day and got an excuse from work, which he did not provide to the employer until he was summoned back to work on September 27, 2011. At that time, he was told by a human resources representative he was discharged for insubordination by refusing the work assignment.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The claimant was discharged for refusing a work assignment. The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. *Endicott v. IDJS*, 367 N.W.2d 300 (Iowa App. 1985). Failure to perform a specific task does not constitute misconduct if that failure is in good faith or for good cause. *Woods v. IDJS*, 327 N.W.2d 768 (Iowa App. 1982).

The employer was obviously well aware of the claimant's medical history, as he had been off work on FML for migraines just shortly prior to the separation. Mr. Williamson did not refuse to do any work, only that particular task, because of the noise level. It does not appear the supervisor gave him any other options as far as a work assignment.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). 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. IDJS*, 364 N.W.2d 262 (Iowa 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. IDJS*, 425 N.W.2d 679 (Iowa 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 Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Employment Appeal Board*, 423 N.W.2d 211 (Iowa App. 1988).

The administrative law judge cannot conclude this one incident rises to the level of misconduct sufficient to warrant a denial of unemployment benefits.

**DECISION:**

The representative's decision of October 21, 2011, reference 01, is reversed. Clint Williamson is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw