

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL J JUMP**  
Claimant

**APPEAL NO. 15A-UI-02613-S2**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEATON INC**  
Employer

**OC: 02/01/15**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Michael Jump (claimant) appealed a representative's February 16, 2015 (reference 01) decision that concluded he was not eligible to receive unemployment insurance benefits after his separation from employment with Beaton (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for March 31, 2015 in Cedar Rapids, Iowa. The claimant participated personally. The employer did not appear for the hearing and, therefore, did not participate.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in the spring of 2013; as a part-time food production worker. The claimant received a copy of the employer's handbook. The employer did not issue the claimant any warnings during his employment and gave the claimant excellent evaluations. The claimant's roommate told the claimant about the job and when he interviewed, the general manager, Lindsay Wagner, promised the claimant he could work approximately the same hours as his roommate. The claimant worked Monday's and Wednesdays from 7:00 a.m. to 11:00 a.m. His roommate worked from 7:00 a.m. to 1:00 p.m. The claimant and his roommate worked Fridays and Saturdays from 7:00 a.m. to 1:00 p.m. The claimant told the general manager he had COPD and panic attacks. Sometimes he had to leave work early due to his condition. The general manager always approved his requests to leave early.

On Saturday, January 10, 2015, the claimant told the general manager he noticed he was not on the schedule for Wednesday, January 14, 2015. He then returned to the kitchen. The general manager yelled at the claimant that if he did not like it, he could leave right now. The claimant said that if it was alright with her, he would finish his prep work and leave at 10:00 a.m. She said it was fine. The claimant's roommate asked permission to leave at 10:00 a.m. and the general manager granted her permission.

At approximately 10:30 a.m. on January 10, 2015, the general manager called the roommate saying she was “fucking mad” at the roommate for leaving work. The roommate offered to return but general manager declined the offer.

On Monday, January 12, 2015, the claimant appeared for work and the general manager called him into her office. She told the claimant she was tired of accommodating his work schedule and he had to start working nights. The general manager was speaking in a loud tone and upset with the claimant. The claimant asked why she was mad at him but she did not answer. The claimant said he was hired to work daytime hours. The general manager told him he was not allowed to leave early on Saturday, January 10, 2015. She told him he had to sign a document or he would no longer have a job. The claimant did not have his eye glasses with him. He attempted to pull out a chair to sit down and try to read the document. The general manager pushed the chair back in. The claimant could not read the document and did not know what it was. The general manager told him three times to get out. The claimant left the premises.

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

For the reasons that follow the administrative law judge concludes the claimant was not discharged for 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).

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). 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). The employer did not participate in the hearing and, therefore, provided no evidence of job-related misconduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's February 16, 2015 (reference 01) decision is reversed. The employer has not met its proof to establish job-related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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