

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**RYAN CHRISTIE**  
Claimant

**APPEAL NO. 18A-UI-11072-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PROGRESSIVE CASUALTY INSURANCE  
COMPANY**  
Employer

**OC: 10/14/18**  
**Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Progressive Casualty Insurance Company (employer) appealed a representative's November 1, 2018, decision (reference 01) that concluded Ryan Christie (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 29, 2018. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by David Williams, Appellate Hearings Representative; Jolene Moeller, Claims Manager; and Wendy Purdy, Claims Supervisor. Exhibit D-1 was received into evidence.

**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 on November 27, 2017, as a full-time claims generalist associate. The claimant signed for receipt of the employer's electronic handbook on November 29, 2017. The handbook contains a Code of Conduct. Employees who do not keep accurate and complete documents they create in connection with their work, will be terminated under the Code of Conduct.

On October 15, 2018, the claims manager was completing a routine IntelliRisk claims review for the claims supervisor who was on vacation. The claims manager noticed a large number of the claimant's calls to customers resulted in voice messages. The claims manager investigated the matter on October 15 and 16, 2018. She accessed the list of telephone numbers the claimant placed from his work telephone between October 8 and October 12, 2018. The claims manager compared the claimant's work documentation of the calls he recorded as culminating in a voice mail with the calls the claimant actually made from his work telephone. She found eleven

telephone calls documented by the claimant on the work report that the claimant did not actually make.

On October 17, 2018, the claims manager, claims supervisor, and a human resources representative met with the claimant. The claimant admitted to falsifying the employer's records. He said it was a stupid mistake, realized it was a violation, and knew he would lose his job. The claimant said he was busy and tired. If he did not make the calls, he would be in trouble. On October 17, 2018, the employer terminated the claimant for falsifying business records.

The claimant filed for unemployment insurance benefits with an effective date of October 14, 2018. He received no unemployment insurance benefits after his separation from employment. The employer's representative sent a letter to the fact-finder signed by Karen Clancy, an Equifax representative, with information about the claimant's separation. The employer did not indicate its intention to participate in the fact-finding interview by a statement from the Equifax representative. On the day of the fact-finding interview, October 30, 2018, the fact finder called Ms. Clancy but she was not available. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights. No one responded to the message.

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

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). As persuasive authority, the falsification of an activity log book constitutes job misconduct. *Smith v. Sorensen*, 222 Nebraska 599, 386 N.W.2d 5 (1986). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's November 1, 2018, decision (reference 01) is reversed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs