

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**JUSTIN KENDALL  
2132 N TOWNE COURT #4  
CEDAR RAPIDS IA 52402**

**ENGINEERED PLASTIC  
COMPONENTS INC  
1408 ZIMMERMAN DR S  
GRINNELL IA 50112**

**Appeal Number: 04A-UI-07832-ET  
OC: 06-27-04 R: 03  
Claimant: Appellant (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**STATE CLEARLY**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 15, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 10, 2004. The claimant participated in the hearing. Mark Fosnaught, Human Resources Manager, and Mike Coomes, Supervisor, participated in the hearing on behalf of the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time press operator for Engineered Plastic Components from

August 11, 2003 to April 23, 2004. On April 22, 2004, the claimant told Mike Coomes, Second Shift Supervisor he was "not having a good day" and was going home. Mr. Coomes told him he would receive one attendance point for leaving before the end of his shift and the claimant clocked out at 5:22 p.m. The claimant reported for work April 23, 2004, and his time card was gone. He went to the office and Mark Fosnaught, Human Resources Manager, asked why he left the day before. The claimant said he was having a bad day and did not like the press he was working on. Mr. Fosnaught stated if an employee left he was considered a voluntary quit. The claimant said he did not quit and wanted to take the attendance point. The claimant did complain about the press and his raise and stated it was "not worth" working there for a ten-cent an hour raise. Mr. Fosnaught said, "Okay, you've quit" and then explained he would be receiving information on COBRA insurance.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W. 608, 612 (Iowa 1980). In this case the fact that the claimant reported for work April 23, 2004, indicates he did not intend to quit his job. Consequently, the issue is whether his leaving early April 22, 2004, constitutes disqualifying job misconduct. The administrative law judge concludes it does not. While not condoning the claimant's decision to leave before the scheduled end of his shift, this was an isolated incident of poor judgment and, as such, does not rise to the level of disqualifying job misconduct. Therefore, benefits are allowed.

DECISION:

The July 15, 2004, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

je/b