

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MATTHEW B LUEDTKE**  
Claimant

**A Y MC DONALD MFG CO**  
Employer

**APPEAL 19A-UI-06220-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 07/14/19**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the August 5, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 28, 2019, at 9:00 a.m. Claimant participated. Employer participated through Jackie Bettcher, Human Resources Representative. Jeff Gaber, Foundry Manager, was a witness for employer. Employer's Exhibits 1 – 5 were admitted.

**ISSUE:**

Whether claimant's separation was a discharge due to disqualifying job-related misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a rough castings finisher from August 12, 2014 until his employment with AY McDonald Manufacturing Company ended on July 16, 2019. (Bettcher)

On June 12, 2019, claimant received a final warning and four-day suspension for taking excessive unscheduled breaks in violation of company policy. (Bettcher; Exhibit 4) The policy regarding abuse of personal time is outlined in the bargaining unit contract. (Bettcher) The policy was reviewed during orientation and claimant received a copy of the contract. (Bettcher) The issue of breaks and leaving early had also been addressed at weekly employee meetings. (Gaber) Claimant was told that any further policy violations would result in termination. (Gaber) Claimant knew that his job was in jeopardy. (Claimant)

On July 10, 2019, claimant quit work five minutes early in violation of employer policy regarding ceasing work before quitting time. (Bettcher; Exhibit 2) The policy is outlined in the bargaining unit contract. (Bettcher) The policy was reviewed at weekly staff meetings. (Claimant; Exhibit 2) Claimant knew quitting work early was a policy violation. (Claimant) Claimant's reason for quitting work early was that he did it out of habit. (Claimant) Claimant was absent from work on July 11, 12 and 15. (Bettcher) On July 16, 2019, employer discharged claimant for violation of company policy by ceasing work before quitting time on July 10, 2019. (Bettcher; Exhibit 1)

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged for disqualifying, job-related misconduct. Benefits are denied.

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 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:

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 of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

Iowa Admin. Code r. 871-24.32(8) provides:

(8) *Past acts of misconduct*. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge cannot be based on such past act or acts. The termination of employment must be based on a current act.

A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy. 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. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. 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. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. 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*

*Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Bd.*, 616 N.W.2d 661 (Iowa 2000).

By quitting work early, claimant violated employer's policy and deliberately disregarded the standards of behavior employer had a right to expect of him. Claimant received prior warnings and knew his job was in jeopardy. Claimant's actions are disqualifying work-related misconduct. Benefits are denied.

**DECISION:**

The August 5, 2019 (reference 01) unemployment insurance decision is affirmed. Benefits are denied.

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Decision Dated and Mailed

acw/rvs