

**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**

**ANGELA S LAIRD
115 OSKALOOSA ST
PELLA IA 50219**

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

**Appeal Number: 05A-UI-04061-AT
OC: 03-20-05 R: 02
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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge
871 IAC 24.32(a) – Final Act of Misconduct

STATEMENT OF THE CASE:

Angela S. Laird filed a timely appeal from an unemployment insurance decision dated April 7, 2005, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held May 6, 2005 with Ms. Laird participating. Human Resources Manager Mark Fosnaught participated for the employer, Engineered Plastic Components, Inc.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Angela S. Laird was employed by Engineered Plastic Components, Inc. from January 21, 2003 until she was discharged March 22, 2005. She worked as an operator. Ms. Laird exceeded her 10-minute break on the morning of March 22, 2005 because of a medical matter. She did not notify her supervisor as she went on break because she did not see him. She notified Operator Dave Johnson, the person giving her the break, that she might be gone a little longer than 10 minutes. Ms. Laird returned about 15 minutes after she went on break. Ms. Laird had received prior warnings during her employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that the claimant was discharged for disqualifying misconduct. It does not.

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).

The employer has the burden of proof. See Iowa Code section 96.6-2. Among the elements it must prove is that the final incident leading directly to the decision to discharge was a current act of misconduct. See 871 IAC 24.32(a).

The evidence in the record establishes that the final incident was Ms. Laird's exceeding her break time on March 22, 2005. The evidence establishes that she exceeded break time because of a medical matter, that she notified the person providing the break to her and that she did not see her supervisor as she left for break. Under the circumstances, the administrative law judge concludes that Ms. Laird gave the employer reasonable notice. Finding no misconduct in the final incident leading to discharge, no disqualification may be imposed.

DECISION:

The unemployment insurance decision dated April 7, 2005, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

pjs/pjs