

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS V RHODES**  
Claimant

**APPEAL NO. 13A-UI-08634-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAPITAL LANDSCAPING LLC**  
Employer

**OC: 01/06/13**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 24, 2013, (reference 05) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on August 30, 2013. Claimant participated. Employer participated through Phil Glaser, Manager.

**ISSUE:**

Was the claimant discharged due to job-connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed seasonal full time as a crew leader landscaper beginning on June 20, 2012 through June 27, 2013 when he was discharged. The claimant was required to have a driver's license for his job. When he returned to work for the second time he had lost his driver's license due to unpaid tickets. The employer graciously agreed to pay half the cost of the claimant's tickets that were his own personal responsibility. The claimant had no say in who the employer decided to hire. The employer hired an ex-convict who did not have a driver's license. The claimant was angry about that and got into an argument with Mr. Mason and began cursing and swearing at him. The claimant had a prior warning about his conduct a few weeks prior to his discharge. The claimant was discharge for swearing at his employer because he was not happy with the employer's hiring decisions.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related 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.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant had no right to critique the employer's hiring decision, particularly when the employer had paid for one-half the cost of the claimant's own tickets. When arguing with the employer the claimant 'dropped the f-bomb' when speaking to Mr. Mason several times. He had been warned previously about not talking to Mr. Mason in a disrespectful manner. The claimant was discharged for arguing with Mr. Mason and using disrespectful language when speaking to him. The claimant's repeated actions after being warned are sufficient misconduct to disqualify him from receipt of unemployment benefits.

**DECISION:**

The July 24, 2013, (reference 05) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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