

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GABRIEL PHELPS**  
Claimant

**BROWN TRUCK LEASING CORP**  
Employer

**APPEAL 15A-UI-05671-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/15**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 4, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination claimant had caused dissension among other employees. The parties were properly notified about the hearing. A telephone hearing was held on June 18, 2015. Claimant Gabriel Phelps participated personally. Employer Brown Truck Leasing Corp. participated through Service Manager Ted Shaver (Shaver).

**ISSUE:**

Was the claimant discharged for 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 Fueller from September 5, 2010, and was separated from employment on April 21, 2015, when he was terminated. On April 20, claimant was working with his uncle and co-worker Melvin Roster (Roster). Roster was “talking shit” and laughing at him. Claimant became angry and punched Roster in the shoulder.

Roster reported the conduct to Shaver and General Manager Mike Shatzer (Shatzer). On April 21, Shaver and Shatzer met with claimant to discuss the incident. Claimant acknowledged during the meeting that he punched Roster. Shaver and Shatzer terminated claimant’s employment. Claimant was aware employer had a policy against violence in the workplace and that his conduct could lead to his termination.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for 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.

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).

Employers generally have an interest in protecting the safety of all of its employees and invitees. Claimant's physical aggression in response to Roster's conduct was in violation of specific work rules and against commonly known acceptable standards of work behavior. This behavior was contrary to the best interests of employer and the safety of its employees and is disqualifying misconduct

**DECISION:**

The May 4, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment for reasons related to job misconduct. Benefits are withheld until such time as the he works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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