

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARQUES T BROOKS**

Claimant

**APPEAL 19A-UI-02813-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**

Employer

**OC: 02/24/19**

**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 March 27, 2019, (reference 02) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on April 23, 2019. Claimant participated. Employer participated through human resource generalist Samantha Miller and director of employee and labor relations Lisa Brewseter. Benefits specialist Mary Eggenburg observed. Employer's Exhibit 1 was received.

**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 began working for employer on October 1, 2017. Claimant last worked as a full-time central service technician I. Employer suspended claimant with pay on January 29, 2019, and later terminated his employment.

Employer has a work rule prohibiting threats of harm or abusive language toward others. Claimant was aware of the rule.

On January 29, 2019, claimant had a meeting with supervisor Jake Nordaas and human resource generalist Samantha Miller to discuss his work performance. Miller interrupted claimant during the meeting. Claimant became upset and raised his voice. Claimant stated, "This is bullshit!" Miller stated she would end the meeting if claimant did not calm down and conduct himself professionally. Claimant remained upset and Miller and Nordaas abruptly ended the meeting. Miller and Nordaas left the conference room first and began walking down the hall. Claimant walked up to them and stated, "You better get your weaponry ready." Miller asked claimant if he was threatening her.

Miller immediately contacted employer's security department. Employer also contacted local law enforcement, who visited with claimant at his home. Employer suspended claimant with pay while it investigated the incident.

During the investigation, claimant apologized because he knew the language he used could be perceived as a threat.

On February 11, 2019, employer terminated claimant's employment.

Claimant had never been previously disciplined for similar conduct.

### **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, regardless of the source of the individual's wage credits:

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).

Employer terminated claimant for misconduct. Claimant's conduct violates employer's policy prohibiting threats of harm and abusive language in the workplace. Although claimant asserts he was making a threat of legal action, any reasonable person in today's day and age understands a threat in the workplace regarding a "weapon" will be taken very seriously and will likely result in termination. Claimant's actions were in deliberate disregard of employer's interest in maintaining a safe workplace and are considered misconduct, even without prior warning.

**DECISION:**

The March 27, 2019, (reference 02) unemployment insurance 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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Decision Dated and Mailed

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