

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THEKRAYAT A AL BAYATE**  
Claimant

**APPEAL NO. 14A-UI-08218-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TPI IOWA LLC**  
Employer

**OC: 07/20/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Thekrayat Al Bayate (claimant) appealed a representative's August 7, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with TPI Iowa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 4, 2014. The claimant was represented by Martin Ozga, Attorney at Law, and participated personally. The employer participated by Danielle Williams, Senior Human Resources Coordinator, and Jay Barnes, Team Leader. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 1, 2012, as a full-time production worker. The claimant signed for receipt of the employer's handbook on October 1, 2012, and September 29, 2013. On November 22, 2013, the employer issued the claimant a verbal warning for work performance issues. The claimant refused to sign for receipt of the warning. The employer notified the claimant that further infractions could result in termination from employment. On July 11, 2014, the employer issued the claimant a written warning for creating a hostile work environment. The claimant refused to sign for receipt of the warning. The employer notified the claimant that further infractions could result in termination from employment.

On July 16, 2014, the claimant's team and team leader measured their work and went to break. While at break the team leader thought he should look at the book before beginning the job in order to recheck the measurements. The measurements were incorrect. The team leader said he took as much fault as everyone. The claimant started yelling at the team leader. She said it was not her fault. She said the team leader was always perfect but the fault was all his. She put her hands up and walked away from the work area and performed work elsewhere. People

freely talked to each other in the workplace but did not yell at each other, as the claimant did with the supervisor. The supervisor reported the claimant's behavior to the employer. The employer terminated the claimant on July 18, 2014.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. She did not follow instructions regarding her performance, signing for receipt of documents, and acting appropriately in the workplace. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

The claimant's and the employer's testimony is not the same. The administrative law judge finds the employer's testimony to be more credible. The claimant's testimony was internally inconsistent.

**DECISION:**

The representative's August 7, 2014, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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