

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KURT LAKE**  
Claimant

**THE HILLSHIRE BRANDS COMPANY**  
Employer

**DIA APPEAL NO. 22IWDUI0052**  
**IWD APPEAL NO. 21A-UI-19073**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 6/13/21**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the August 20, 2021 (reference 02) unemployment insurance decision that denied benefits based upon claimant's discharge from employment for failing to follow instructions in the performance of his job. The parties were properly notified of the hearing. A telephone hearing was held on November 12, 2021 before Administrative Law Judge Laura Lockard. The claimant, Kurt Lake, participated and presented testimony. The employer, The Hillshire Brands Company, did not participate. The administrative law judge took administrative notice of the August 20, 2021 decision and the claimant's appeal. The claimant submitted a termination of employment form from the employer that was admitted as evidence.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
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 Kurt Lake was employed as a farm supervisor with The Hillshire Brands Company. This was a full-time position and Lake lived on the farm where he worked in housing provided by the employer. Lake supervised three other employees. Lake's direct supervisor was Steve Ewalt. He also reported to Curtis Stearn, the senior manager of brooders. Lake began working for the employer in 2009 or 2010.

In early June 2021, human resources manager Tim Steffens informed Lake that he was being placed on paid suspension. According to Lake, the employees he worked for accused him of creating a toxic work environment. One of the employees had requested to take a day off with only two days' advance notice. The day that he was requesting to be absent the farm was going to be receiving a large shipment of poult, therefore Lake denied the request. A second employee

had repeatedly miscounted dead turkeys. Lake reported this to human resources and the employee was written up. Lake believes that the employees were trying to retaliate against him for denying the vacation request and for reporting the counting issue to human resources. The employees reported to human resources that Lake was yelling and swearing at them. Lake did not yell or swear at the employees.

At the time he was placed on paid leave, Lake had been a supervisor with the employer for six years. His employees had never complained about him. Lake received a write up one time during his tenure with the employer; that write up occurred within the first two years that he was employed with the employer and was prior to him becoming a supervisor. The write up related to horseplay on the job. Lake received no other discipline during his years with the employer. His reviews demonstrated that he was a good supervisor; the employer would place difficult employees at his farm and he was always able to manage them effectively.

After approximately two weeks of paid suspension, Lake was terminated by the employer. The employer gave him a form titled Termination of Employment. Under the reason for termination, the employer wrote, "Involuntary & Gross Misconduct under Harassment & Discrimination Policy regarding hostile work environment." The form is signed by Curtis Stearn and Tim Steffens.

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

For the reasons that follow, the administrative law judge concludes the claimant was not discharged from employment for a disqualifying reason. Benefits are allowed.

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) provides, in relevant part:

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 bears the burden of proving that a claimant is disqualified from receiving benefits because of substantial misconduct within the meaning of Iowa Code section 96.5(2). *Myers v. Emp't Appeal Bd.*, 462 N.W.2d 734, 737 (Iowa App. 1990). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa App. 1988).

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa App. 1984). The focus is on deliberate, intentional, or culpable acts by the employee. When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* In contrast, 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. *Id.*

The employer did not appear at the hearing to participate and present evidence. The Termination of Employment form that the employer gave to Lake upon his termination indicates that the reason for termination was "involuntary and gross misconduct." The employer's characterization of the misconduct as involuntary indicates that the misconduct was not deliberate, as required for a denial of unemployment insurance benefits. Additionally, there is no evidence in the record of acts that fit the definition of misconduct. Under these circumstances, the employer has not met its burden of proving that Lake was discharged for misconduct that would disqualify him from receiving unemployment insurance benefits.

**DECISION:**

The August 20, 2021 (reference 02 ) unemployment insurance decision is reversed. Claimant was not discharged from employment for any disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



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Laura E. Lockard  
Administrative Law Judge  
Department of Inspections and Appeals  
Administrative Hearings Division

11-19-21

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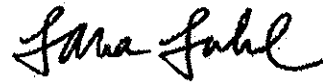
Decision Dated and Mailed

CC: Kurt Lake, Claimant (first class mail)  
The Hillshire Brands Company c/o Talx Corporation (first class mail)  
Karen Holett, IWD (email)  
Joni Benson, IWD (AEDMS)

**Case Title:** LAKE V. THE HILLSHIRE BRANDS COMPANY  
**Case Number:** 22IWDUI0052  
**Type:** Proposed Decision

IT IS SO ORDERED.

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Laura Lockard, Administrative Law Judge