

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRAIG A RUPPELT
Claimant

WESS INC
Employer

APPEAL 16A-UI-06544-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/15
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 filed an appeal from the June 9, 2016 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit rather than performing assigned work. The parties were properly notified of the hearing. A telephone hearing was held on June 29, 2016. The claimant, Craig A. Ruppelt, participated and a witness, Claudia James, participated on claimant's behalf. The employer, Wess, Inc., did not register a telephone number for the hearing and did not participate.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a diesel mechanic from approximately 2014 until this employment ended on May 16, 2016, when he was discharged.

On claimant's final day of work, he was not feeling well. He went in the back room and sat down on a box and put his head in his hands. Claimant's employer asked what he was doing and claimant explained he was taking a break. Claimant then resumed working. Claimant was still not feeling well and expressed this to his employer. Claimant's employer then told him "If you don't feel well, maybe you should just go home." Claimant left work and traveled by bicycle from Clear Lake to his hometown of Mason City. While he was riding home, the employer called and left him a threatening message, stating he needed to come back to work or he was "done." Claimant called his employer back and stated that if the employer could come pick him up, he would return to work. Claimant's employer became angry and said "We're done." Claimant told his employer numerous times that he was not quitting. Claimant's employer ended the conversation by hanging up on him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989); see also Iowa Admin. Code r. 871-24.25(35). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Here, claimant testified that he expressly told his employer he did not intend to quit his employment. The administrative law judge finds claimant did not quit but was discharged. Therefore, this case will be analyzed as a discharge from employment and the burden of proof falls to the employer.

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 and (4) 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).

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). 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 Ct. 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 Ct. 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."

Claimant testified that he was given permission to go home, as he was not feeling well. Once he returned home, the employer called and instructed him to return to work. Claimant did not refuse to follow this instruction. Rather, he asked if the employer could pick him up, as he travels by bicycle and lives in a different town than his workplace. At that point, the employer became angry with claimant and discharged him. The employer did not participate in the hearing or submit any documentation showing any misconduct on claimant's part. The employer has not met its burden of proving claimant was discharged for disqualifying work-related misconduct. Benefits are allowed.

DECISION:

The June 9, 2016 (reference 03) decision is reversed. Claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits withheld shall be paid to claimant.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

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