

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JAMES B REEDER
285 ROBINS RD APT E3
HIAWATHA IA 52233-1445**

**ROCKWELL COLLINS INC
c/o TALX UCM SERVICES
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 06A-UI-04364-H2T
OC: 03-26-06 R: 03
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 11, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on May 9, 2006. The claimant did not participate. The employer did participate through Fernando Williams, Senior Human Resource Specialist, and Mark Fischer, Security Specialist. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a manager of technical support full time beginning May 31, 1988 through March 16, 2006, when he was discharged.

The employer discovered on March 1, 2006, that the claimant was using the company's computer on working time to conduct instant messaging conversations with what the claimant believed was a thirteen-year-old girl. The claimant was instant messaging the child in an attempt to solicit sexual acts from her. The claimant used the company's computer to make arrangements to meet the girl during business hours then told his manager he needed to leave work for personal business. After a search warrant was served on the employer, they turned over the claimant's computer to law enforcement officials and began their own internal investigation. The claimant had been trained on proper use of the employer's property including the computer. When interviewed by management officials the claimant admitted that he had used the company computer in an inappropriate manner. The claimant also admitted visiting pornographic websites.

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 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.

871 IAC 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 Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant used the company computer on company time to solicit what he believed to be a thirteen-year-old girl for sex. He knew or should have known that such conduct was not in the employer's best interests. His actions constitute sufficient misconduct to disqualify him from receiving benefits. The claimant had not collected any unemployment insurance benefits since filing his claim. Benefits are denied.

DECISION:

The April 11, 2006, reference 01, decision is reversed. 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.

tkh/kkf