

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**ESTHER E RUEDA**  
Claimant

**JACOBSON WAREHOUSE CO INC**  
Employer

**APPEAL 15A-UI-10714-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/26/15  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 28, 2105, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 7, 2015. Claimant participated. Employer participated through Zac Easley, Manager.

**ISSUE:**

Was the claimant discharged due to job connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a material handler one beginning on January 5, 2015 through April 24, 2015 when she was discharged.

When she was hired the claimant was given a copy of the employer's handbook and policy manual which put her on notice that even one instance of violence in the workplace could lead to her discharge. The claimant and her co-worker Connie did not get along. As a result of a disruption between Connie and the claimant in February 2015 the employer gave every employee a written document called a 'reminder of expectations' that put employees on notice about behavior in the workplace that would not be tolerated. The claimant signed off on receipt of the reminder which included information about violence in the workplace.

On April 23 Connie began yelling and cursing at the claimant because the propane tanks on her forklift were empty. The claimant yelled and cursed back and then put her hands on Connie and pushed her. Connie did not put her hands on the claimant. Both Connie and the claimant were discharged on April 24 for violating the employer's standards of conduct. Both at hearing and during the employer's investigation the claimant admitted to pushing Connie. The two witnesses to the event both provided similar testimony about what occurred.

## 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:

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant had been given notice that the employer would not tolerate any violence in the workplace. The claimant put her hands on a coworker and pushed the coworker. Such conduct is in violation of the employer's known rules and is conduct not in the employer best interest. Mere words can never justify assault. That is to say, nothing anyone ever says to you, can give an employee permission to put their hands on a coworker. The claimant had been given a final reminder about expectations in February 2015. Her actions amount to work connected misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The May 28, 2015, (reference 04) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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