

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

CHRIS D BAHR
507 CEDAR
IOWA FALLS IA 50126

QUALITY PRODUCTS
1901 – 21ST ST
ELDORA IA 50627

Appeal Number: 05A-UI-04816-JTT
OC: 01/23/05 R: 02
Claimant: Appellant (1)

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 for Misconduct

STATEMENT OF THE CASE:

Chris Bahr (claimant) filed a timely appeal from the May 3, 2005, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on June 13, 2005. Mr. Bahr participated in the hearing. The employer participated through Greg Melcher, Day Shift Supervisor.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Bahr was employed as a full-time Machine Operator through April 18, 2005, when Greg Melcher, Supervisor, discharged him for misconduct.

The final incident that prompted the discharge occurred on April 15, 2005. On that day, Mr. Bahr was operating a machine that produces plastic lawn and garden tanks. Mr. Bahr became upset because the finished tanks were hot to touch even though he was wearing extra gloves. Mr. Bahr did not bring his concerns to either of the Lead Workers who were working at the time. Instead, Mr. Bahr expressed his frustration with the situation by stabbing and damaging finished tanks with a work knife. At the time Mr. Bahr stabbed the tanks, he yelled, "Die, die." On April 18, 2005, Lead Person Mike England brought the matter to the attention of Supervisor Greg Melcher. Lead Person Al Kinney and Machine Operator Ira Wichert subsequently approached Mr. Melcher with additional information about the incident. When Mr. Bahr arrived for his next shift, Mr. Melcher questioned Mr. Bahr regarding the incident. Mr. Bahr admitted to damaging the tanks. Mr. Melcher was concerned about the risk Mr. Bahr's behavior presented to other employees and about the intentional damage to the employer's property. The employer has a provision in its employee handbook that warns employees that they will be discharged on the first offense of causing intentional damage to the employer's property. Mr. Melcher discharged Mr. Bahr for intentionally damaging the employer's property.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Bahr was discharged for misconduct in connection with his employment. It does.

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).

Since the claimant was discharged, the employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

The evidence in the record establishes that Mr. Bahr intentionally damaged the employer's finished product. Mr. Bahr's actions amounted to a willful and wanton disregard of the employer's interests and standards of conduct the employer had a right to expect of its employees. See 871 IAC 24.32(1)(a). Mr. Bahr was discharged for misconduct. Accordingly, a disqualification will enter.

DECISION:

The Agency representative's decision dated May 3, 2005, reference 03, is affirmed. The claimant was discharged for misconduct. The claimant is disqualified for unemployment benefits until he has worked in and paid wages for insured work equal to ten times his weekly benefit allowance, provided he then meets all other eligibility requirements.

jt/pjs