

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CODY GODDEN**  
Claimant

**PALMER & COMPANY**  
Employer

**APPEAL 19A-UI-09984-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/24/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Cody Godden (claimant) appealed a representative's December 10, 2019, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits after his separation from work with Palmer & Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 14, 2020. The claimant participated personally. The employer participated by Hanna Reinders, Director of Human Resources; Addie Adler, Repack Supervisor; Leonor Woods, Quality Control Technician; and Patty West, Plant Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 1, 2019, as a full-time fork lift driver. The claimant signed for receipt of the employer's handbook on June 25, 2019. The employer has a policy regarding profanity that states, "Palmer Candy Company prohibits the use of all profanity including, but not limited to; popular profanities, slurs and phrases termed "hate speech. Any use of profanity in the workplace will result in disciplinary action being taken, up to and including termination of employment."

On September 5, 2019, the employer talked to the claimant about arguing with team members and wearing an earring in violation of the employer's policies. On October 19, 2019, the employer issued the claimant a written warning for attendance issues. The employer notified the claimant that further infractions could result in termination from employment.

On November 22, 2019, the claimant went to the plant manager to discuss returning to his regular job duties. He had been performing other work at the behest of the employer. The plant manager told the claimant that he might have to perform the other work for another week. This upset the claimant.

The claimant refused to stay in his work area and told his direct supervisor, "I'm not gonna stay the fuck up there, I'm just gonna keep walking around." His direct supervisor told him to stop using profanity but he continued. He told a quality control technician, "You guys are really fucking anal in this place". The claimant apologized repeatedly to her throughout the day. Approximately ten employees heard the claimant use profanity.

On November 22, 2019, the employer terminated the claimant for his repeated use of profanity, specifically the word, "fuck", after being told to cease.

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

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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).

Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a

right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's December 10, 2019, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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