

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN T MAPES

Claimant

APPEAL 20A-UI-09198-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN GORP CORPORATION

Employer

OC: 11/17/19

Claimant: Appellant (2)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause

Iowa Code section 96.5(2)(a) – Discharge for Misconduct

Iowa Administrative Code rule 871-24.32(1)(a) – Discharge for Misconduct

STATEMENT OF THE CASE:

John T. Mapes appealed the July 28, 2020 (reference 01) unemployment insurance decision that denied benefits. The agency properly notified the parties of the hearing. The undersigned presided over a telephone hearing on September 15, 2020. Mapes participated personally and testified. Van Gorp Corporation (Van Gorp) participated through Stacy Ford, a human resources manager, and Dorsha Moyer, who was Mapes's immediate supervisor. Both testified.

ISSUE:

Was Mapes's separation from employment with Van Gorp a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

Did Van Gorp discharge Mapes for job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Van Gorp hired Mapes on February 16, 2018. Mapes worked full time as a machinist. Van Gorp discharged Mapes on April 13, 2020.

Van Corp reassigned Mapes to work a different shift. Mapes was a team lead before changing shifts. After changing shifts, he was not a team lead. Working Monday through Friday aggravated a health condition Mapes had.

Mapes had to use a machine called "the summit" on his new shift. Mapes and multiple of his coworkers had problems using this machine because it vibrated. The vibration made cutting accurately and with quality difficult. Mapes consequently saw the quality and speed of his work

reduced by working on the summit. Mapes complained to Van Gorp about using the summit and asked to use a different machine, but to no avail.

On February 18, 2020, Van Gorp suspended Mapes for three days because of the low quality and slow speed of his work. The incident that triggered the suspension was that Mapes completed three pulley shafts and Van Gorp had to scrap two of them due to their low quality.

Van Gorp coached Mapes on April 1, 2020. His supervisor met with him to discuss how to improve his performance. Van Gorp had another machinist help coach Mapes.

On April 13, 2020, Mapes was using a print to cut a piece. Two workers came to his work station. During their interaction, Mapes mixed up the print he was using. This caused him to make ten pieces that were the correct dimensions based on the print he had used, but the wrong dimensions for the piece Van Gorp directed him to make, because he had used the wrong print.

Van Gorp discharged Mapes because of the April 13 incident in part because of his mistake and in part because Mapes had been suspended in February.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Van Gorp discharged Mapes from employment for no disqualifying reason.

In appeals such as this one, the issue is not whether the employer made a correct decision in discharging 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).

Under Iowa Code section 96.5(2)(a), an individual is disqualified for benefits if the employer discharges the individual for misconduct in connection with the individual's employment. The statute does not define "misconduct." But Iowa Administrative Code rule 871-24.32(1)(a) does:

"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.

The Iowa Supreme Court has ruled this definition accurately reflects the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Administrative Code rule 871-24.32(4) states:

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.

Under Iowa Administrative Code rule 871-24.32(8),

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Further, 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." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Further, poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

There was no evidence presented that any of the incidents alleged by Van Gorp were intentional or were caused by any carelessness on the part of Mapes which indicates a wrongful intent. This type of behavior does not rise to the level of misconduct. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Bd.*, 616 N.W.2d 661 (Iowa 2000). Reoccurring acts of negligence by an employee would probably be described by most employers as in disregard of their interests. *Greenwell v Emp't Appeal Bd.*, No. 15-0154 (Iowa Ct. App. March 23, 2016). The misconduct legal standard requires more than reoccurring acts of negligence in disregard of the employer's interests. *Id.*

For these reasons, Van Gorp has not met its burden of proof. The evidence forms an insufficient basis from which to conclude Mapes committed misconduct under Iowa Code section 96.5(2)(a) and rule 871-24.32(1)(a). Benefits are allowed.

DECISION:

The July 28, 2020 (reference 01) unemployment insurance decision is reversed. Van Gorp discharged Mapes from employment for no disqualifying reason. Benefits are allowed, provided Mapes is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a large, stylized flourish extending from the end of the name.

Ben Humphrey
Administrative Law Judge

September 22, 2020
Decision Dated and Mailed

bh/sam