

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**CHRISTOPHER H POWERS**  
Claimant

**APPEAL NO. 12A-UI-03516-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA MOLD TOOLING CO INC**  
Employer

**OC: 02/26/12  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated April 3, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on April 23, 2012. Claimant participated personally. The employer participated by Mr. Lynn Swenson, Human Resource Manager.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Christopher Powers was employed by Iowa Mold Tooling Company, Inc. from June 20, 2011 until March 1, 2012 when he was discharged from employment. Claimant was employed as a full-time painter and was paid by the hour. His immediate supervisor was Mitch Johnson.

Mr. Powers was discharged following an incident that took place on approximately February 25, 2012. On that date the claimant was called to a private meeting. During the meeting the claimant's supervisor instructed the claimant and approximately three other employees to begin performing a task. Mr. Powers disagreed with the instruction and shook his head. A confrontation between Mr. Powers and his supervisor ensued. During the confrontation, Mr. Powers stated to his supervisor, "I'm going to kick your ass."

Because of the company's policy which prohibited violence or threats of violence in the workplace, a decision was made to terminate Mr. Powers from his employment. Reasonable alternatives were available to the claimant. The company has an open door policy that allows employees to complain to upper management if they feel their supervisors are acting inappropriately.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. 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.

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 insurance benefits. 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. of Appeals 1992).

Threats towards an employer or a supervisor constitute misconduct. See Henecke v. Iowa Department of Job Service, 533 N.W.2d 573 (Iowa App. 1995). An isolated incident of insubordination or vulgarity can constitute misconduct and warrant disqualification for unemployment benefits if it serves to undermine a superior's authority. Deever v. Hawkeye Window Cleaning, Inc., 447 N.W.2d 148 (Iowa Ct. of Appeals 1989).

The evidence in the record establishes that Mr. Powers was discharged because he made a threat to harm his supervisor. The claimant's threat constitutes misconduct. Accordingly, the

claimant is disqualified until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

**DECISION:**

The representative's decision dated April 3, 2012, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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