

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL WELLS**

Claimant

**BRIDGESTONE AMERICAS TIRE**

Employer

**APPEAL NO: 13A-UI-09052-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/07/13**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 29, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 10, 2013. The claimant participated in the hearing. Jim Funcheon, Divisional Human Resources Manager; Tom Barragan, Human Resources Section Manager; and Cyon Williams, Production Supervisor participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time calendar relief operator for Bridgestone America from October 24, 1994 to July 10, 2013. He was discharged for violating the employer's Mutual Respect/Conduct/Work Related Employee Disputes policies.

On June 4, 2013, the claimant was instructed to relieve the calendar operator at 3:00 p.m. and forgot to do so. Consequently, Production Supervisor Cyon Williams confronted the claimant and the claimant told him to leave him alone and let him do his job. Mr. Williams continued trying to talk to the claimant until the claimant told him to "get the fuck out of my face" and "it's your fucking job to supervise me." The situation occurred just before the employer's human resources department left for the day and therefore Mr. Williams reported the problem during the next scheduled shift for the production workers, which was June 7, 2013. Human Resources met with the claimant and determined he violated the employer's Mutual Respect, Employee Disputes and Conduct Policies, gave him a three-day working suspension and had him sign a "Condition of Employment" letter stating he was required to contact the Employee Assistance Program (EAP) for anger management treatment. The Condition of Employment letter was to be in effect for one year. The claimant signed the letter June 11, 2013.

Around June 24, 2013, production worker Valerie Cory put a note up informing employees she was going to be cleaning the refrigerator at 6:00 a.m. June 27, 2013, and anything left in the refrigerator would be thrown away. Shortly after 6:00 a.m., Mr. Williams heard yelling and found the claimant yelling and swearing at Ms. Cory because he had placed his breakfast and lunch in the refrigerator and it had been thrown away. Ms. Cory was “crying her eyes out” as the claimant repeatedly yelled at her that she had “fucking thrown my fucking breakfast out” and “fucking thrown my fucking lunch out.” Ms. Cory tried to explain she had put the note up informing employees not to leave any food in the refrigerator that day after 6:00 a.m. because she was going to clean it but the claimant continued yelling and swearing at her. Mr. Williams told the claimant to walk away and eventually he did so. Mr. Williams then notified Human Resources and was instructed to have the claimant escorted from the building because the employer wanted to give the claimant time to calm down before discussing the matter. On June 28, 2013, Human Resources met with the claimant and he explained he was very upset with Ms. Cory for throwing out his food. The claimant had been very aggressive and used profanity after going out on the floor to find Ms. Cory the day before. The employer determined the claimant violated the Condition of Employment letter and after the employer’s shutdown period between July 1 and July 9, 2013, it notified the claimant his employment was terminated July 10, 2013.

## **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 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.

The claimant completely lost his temper, yelling and swearing at two different employees, on two occasions just over three weeks apart. After the first incident, the employer instructed the claimant to seek help from EAP but the claimant did not attend anger management classes. He was also suspended and required to sign a Condition of Employment Letter, which was in effect a last-chance agreement. The employer's policies clearly address Mutual Respect/Conduct/Work Related Employee Disputes and the claimant knew or should have known that his behavior was unacceptable in both circumstances. Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

**DECISION:**

The July 29, 2013, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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