

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RONALD G WOODLEY**  
Claimant

**APPEAL 19A-UI-01629-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BAZOOKA FARMSTAR INC**  
Employer

**OC: 01/20/19  
Claimant: Respondent (1R)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 15, 2019, (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was discharged and the employer failed to establish the discharge was for willful or deliberate misconduct. The parties were properly notified of the hearing. A telephonic hearing was held on March 11, 2019. The claimant, Ronald G. Woodley, participated. The employer, Bazooka Farmstar, Inc., participated through Amanda Russell, HR Generalist. Employer's Exhibits 1 through 8 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a Final Assembly employee, from September 18, 2017, until January 21, 2019, when he was discharged. Claimant had a prior work-related injury. Subsequently, he reported to the employer that he was still injured and needed a light-duty assignment, though his issue was no longer work-related. Claimant presented a doctor's note dated January 15, 2019, stating claimant was restricted to light duty with no repetitive use of hands, wrists, or arms, and no prolonged sitting. (Exhibit 1) At that point, the employer determined that claimant should be discharged because he could no longer perform his job duties. Russell explained that the employer created some light-duty work for claimant on a temporary basis, but it did not have sufficient light-duty work for claimant to remain employed.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$1,696.00, since filing a claim with an effective date of January 20, 2019, and a reopened date of February 10, 2019, for the four weeks ending March 2, 2019. The administrative record also establishes that the employer did participate in the fact-finding interview or make a first-hand witness available for rebuttal. Russell personally participated in the fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

Iowa Code § 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.

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).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. 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 an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. Here, claimant was discharged because he was on work restrictions for a non-work-related illness. This is not disqualifying misconduct. Benefits are allowed.

It is unclear whether claimant is physically able to work and whether he is actively seeking jobs he can perform, given his restrictions. This matter will be remanded for further investigation.

**DECISION:**

The February 15, 2019, (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

**REMAND:**

The issue of whether claimant is able to work, available for work, and actively and earnestly seeking work is remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn