

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DANIEL E HUDSON**  
Claimant

**EATON CORPORATION**  
Employer

**APPEAL 15A-UI-10741-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/30/15**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Daniel Hudson (claimant) filed an appeal from the September 22, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination that the claimant was discharged for engaging in conduct that was not in the best interest of Eaton Corporation (employer). The parties were properly notified about the hearing. A telephone hearing was held on October 19, 2015. The claimant unexpectedly passed away on October 14, 2015. He is survived by his spouse, Sharon Hudson (Hudson), who participated in the hearing on his behalf through Attorney Marlon Mormann. The employer did not participate in the hearing. Claimant's Exhibits A through C were received.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a Crater beginning October 12, 1993, and was separated from employment on September 3, 2015, when he was discharged. The employer has a Vision program which allows an employee the opportunity to offer cost-saving ideas to the employer which, if implemented, results in a monetary reward to the employee. The claimant had submitted multiple ideas under this program and four were implemented. The most recent resulted in a \$3.5 million savings to the employer. The employer also has a program that allows employees to take and keep scrap parts. The employee is required to obtain a scrap pass from his or her supervisor.

At the beginning of September 2015, the claimant took a mouse and another item from the scrap area without obtaining a scrap pass. He did not obtain a scrap pass because his intention was not to keep the parts. He wanted the parts to work on a recycling idea he had for the Vision program. His supervisor knew he was taking the items. The claimant was later terminated for failing to utilize the scrap pass procedure.

## 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.

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 cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

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. 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." When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

The employer has failed to show the claimant engaged in misconduct. The scrap policy was implemented for those employees who were going to keep the scrap items they acquired. The claimant did not have the intention to keep the items, so it is not clear he needed a scrap pass. Additionally, his supervisor was aware he was in possession of the items.

In the alternative, even if the claimant had violated the employer's policy, the conduct for which he was discharged was an isolated incident of poor judgment and inasmuch as the employer had not previously warned the claimant about the issue leading to the separation, it has not met the burden of proof to establish that the claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Training or general notice to staff about a policy is not considered a disciplinary warning. Accordingly, benefits are allowed provided he is otherwise eligible.

**DECISION:**

The September 22, 2015, (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed through the date of his passing, October 14, 2015, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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