

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BRENDA HUNTLEY**  
Claimant

**IOWA PACIFIC PROCESSORS INC**  
Employer

**APPEAL NO. 17A-UI-10408-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/17/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 9, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 30, 2017. Claimant participated personally. Employer participated by Teri Miller and Michael Everett. Employer's Exhibits 1-2 were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant was discharged for misconduct?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 15, 2017. Employer discharged claimant on September 15, 2017 because claimant, working as an accountant, made numerous errors after being counselled and receiving a written warning for having committed numerous errors.

Employer stated that claimant had been a wonderful worker until early in 2017. Claimant was able to successfully execute all of her tasks. For some reason, employer stated that this year claimant's work product had fallen off considerably. As an accountant, claimant was repeatedly making errors on account billings, inventory, and other matters employer depended on claimant's accuracy. Claimant received multiple counseling's from employer, and on August 24, 2017, claimant received a written warning concerning claimant's accuracy and timeliness.

On September 14, 2015, claimant asked to go back to the refrigeration area. She was given the task of counting inventory while she was there. Claimant miscounted twice, both over counting and undercounting said inventory. Claimant was terminated the next day for her on-going errors.

Claimant stated that she loved working for employer and never intentionally made the errors. She further stated that she'd been told in years past that she was one of employer's best

employees. Regarding the last incident, claimant stated that she counted the items to the best of her ability, and couldn't see some of the items as her vision was blocked by other materials. Claimant did not ask employer to move the blocking items to make her count more accurate.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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).

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982), Iowa Code § 96.5-2-a.

In order to establish misconduct as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. Rule 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa Ct. App. 1986). The

conduct must show a 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 the employee's duties and obligations to the employer. Rule 871 IAC 24.32(1)a; *Huntoon* supra; *Henry* supra.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. The lack of a current warning may detract from a finding of an intentional policy violation. In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning repeated accounting errors.

The last incident, which brought about the discharge, constitutes misconduct because claimant submitted a report of the amount of items without ensuring that her count was accurate. Claimant did not ask the items blocking her ability to count be removed in order to ensure a proper counting. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits. Although claimant's errors were certainly not intentional, claimant had previously shown a capacity to perform all functions of her job. These repeated unintentional errors did amount to negligence of such a high degree of recurrence to amount to misconduct.

**DECISION:**

The decision of the representative dated October 9, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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