

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRIS M STUFFLEBEAM
Claimant

APPEAL 21A-UI-23423-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SUPERIOR TUBE PRODUCTS
Employer

**OC: 08/29/21
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 15, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 12, 2021. Claimant participated. Employer participated through Dana Schulz. Claimant's exhibit A was offered and admitted. No exhibits were admitted.

ISSUE:

Whether claimant's separation was a discharge for disqualifying job-related misconduct.
Whether claimant voluntarily quit for reasons attributable to the employer.

FINDINGS OF FACT:

The administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed beginning November 23, 2020 as a full-time production supervisor. Claimant's immediate supervisor was Andrew Roman or Melinda Hessley. On August 24, 2021, the claimant was discharged from employment. Andrew Roman, Charlie Robinson and Dana Schulz met with the claimant to inform him of his discharge from employment for his behavior and unprofessionalism at the place of work. Every morning, the staff have a production meeting. In the particular meeting, claimant was hostile and unprofessional toward his co-workers. Claimant refused to talk to his supervisor. When his supervisor asked to speak with claimant, the claimant walked away. The claimant also had an aggressive blow-up on June 29. Claimant was informed that professionalism was expected of employees in the employee handbook he received at the time of his hire.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged for disqualifying job-related misconduct. Benefits are denied.

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 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:

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.

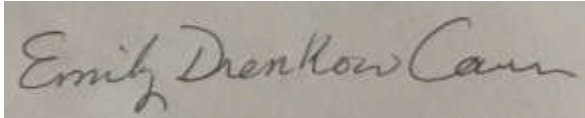
This definition of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

"The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context, may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made. The question of whether the use of improper language in the workplace is misconduct is nearly always a fact question. It must be considered with other relevant factors, including the context in which it is said, and the general work environment." *Myers v. Emp't Appeal Bd.*, 462 N.W.2d 734 (Iowa Ct. App. 1990). Vulgar language in front of customers can constitute misconduct, *Zeches v. Iowa Dep't of Job Serv.*, 333 N.W.2d 735, 736 (Iowa Ct. App. 1983), as well as vulgarities accompanied with a refusal to obey supervisors. *Warrell v. Iowa Dep't of Job Serv.*, 356 N.W.2d 587, 589 (Iowa Ct. App. 1984).

Claimant used profanity and offensive language in a confrontational, disrespectful context with a supervisor while refusing to obey the supervisor's directive to speak with him. Instead, the claimant walked away. Claimant's actions were a deliberate violation or disregard of standards of behavior employer had a right to expect of claimant and constitute misconduct even without a prior warning. Claimant was discharged for a current act of disqualifying work-related misconduct. Benefits are denied.

DECISION:

The October 15, 2021 (reference 01), unemployment insurance decision is affirmed. Claimant was discharged for disqualifying job-related misconduct. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

January 19, 2022
Decision Dated and Mailed

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