

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHRIS D BAKER**  
Claimant

**INGREDION INCORPORATED**  
Employer

**APPEAL 21R-UI-11699-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/23/20**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Chris D Baker, the claimant/appellant, filed an appeal from the December 8, 2020, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was scheduled for March 3, 2021 at 10:00 a.m. Mr. Baker provided a phone number but did not respond at the number he provided at the time the hearing was scheduled to begin. The administrative law judge left Mr. Baker a voice message informing him that the record would close at 10:15 a.m. Mr. Baker did not contact the Appeals Bureau during the 15 minute grace period. The employer did not register for the hearing and did not participate. Because Mr. Baker filed the appeal and failed to make himself available at the time the hearing was scheduled, the record was closed and no hearing was held.

Mr. Baker contacted the Appeals Bureau via phone after the record had closed at 10:19 a.m. Mr. Baker appealed to the Employment Appeal Board (EAB). The EAB concluded that Mr. Baker did not provide a phone number at which he could be reached but he contacted the administrative law judge within a reasonable timeframe. The EAB remanded the case for another hearing.

A new hearing was scheduled for July 14, 2021 at 8:00 a.m. The parties were properly notified of the hearing. Mr. Baker participated and testified. The employer did not register for the hearing and did not participate. Official notice was taken of the administrative record and Iowa Courts Online, the Iowa Judicial Branch's online docketing system.

**ISSUE:**

Was Mr. Baker discharged for disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Baker began working for the employer in October 2015. He worked as a full-time refinery operator on third shift. His employment ended on September 25, 2020.

Mr. Baker worked his usual shift beginning at 11:00 p.m. on August 6, 2020 and ending at 7:00 a.m. on August 7. Mr. Baker did not have a set number of breaks or set breaks times. He took breaks whenever he was able to, depending on the workload. At about 8:00 p.m. on August 7, the employer called Mr. Baker and told him he was suspended without pay pending an investigation into allegations that he was under the influence of drugs and/or alcohol the night of August 6. The employer alleged that the safety manager had observed Mr. Baker going to his car four times during his shift and not returning to work for a while and sleeping on the job. The employer did not give Mr. Baker any verbal or written warnings the night of August about any issues.

Around midnight on August 7, Mr. Baker was arrested and accused of operating while under the influence (OWI) and possession of marijuana. The employer learned of Mr. Baker's arrest. During the investigation, the employer met with Mr. Baker. The employer alleged that Mr. Baker was under the influence of drugs and/or alcohol the night of August 6 and that was why he was sleeping on the job. Mr. Baker denied the allegation. The employer also alleged that Mr. Baker had threatened another employee with a hammer over two years ago. Mr. Baker denied the allegation.

On September 25, the employer met with Mr. Baker and terminated his employment for being under the influence of drugs and/or alcohol and for threatening an employee with a hammer. The employer stated that Mr. Baker's August 7 arrest for OWI and possession of marijuana was supporting evidence that he was under the influence of drugs and/or alcohol the night of August 6.

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

For the reasons that follow, the administrative law judge concludes Mr. Baker was discharged from employment for no disqualifying reason.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

871 IAC 24.32(4) provides:

*Report required.* The claimant's statement and 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.

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). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

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. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, Mr. Baker denied being under the influence of drugs and/or alcohol on the night of August 6. Mr. Baker's arrest on the night of August 7 does not establish that he was under the influence of drugs and/or alcohol the previous night. Mr. Baker also denied threatening another employee with a hammer over two years ago. The employer did not participate in the hearing and provided no evidence to establish misconduct on the part of Mr. Baker. The employer has failed to meet its burden. Benefits are allowed.

**DECISION:**

The December 8, 2020, (reference 02) unemployment insurance decision is reversed. Mr. Baker was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



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Daniel Zeno  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

July 23, 2021  
Decision Dated and Mailed

dz/mh