

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MUBAARA HASAN
Claimant

APPEAL NO: 16A-UI-04877-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PREMIUM LLC
Employer

OC: 03/27/16
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 20, 2016, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 11, 2016. The claimant participated in the hearing with Language Link Interpreter Abdullah (Identification Number 10176). Doug Baker, Director of Human Resources, and Jenny Mora, Training Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general laborer for Iowa Premium from September 29, 2015 to March 18, 2016. He was discharged for threatening a supervisor with a knife on March 8, 2016.

The claimant was working on the line March 8, 2016, when product began piling up. His supervisor, Hector Martinez, tried to help him by pulling a piece of meat off the table. The claimant called him a “motherfucker” and told him he was going to stab Mr. Martinez in the stomach. The claimant then took the knife and made a stabbing gesture toward Mr. Martinez stomach but did not touch him. Another supervisor, Gilberto Romero-Santoya, walked up to the line in time to hear the claimant’s name calling and threat toward Mr. Martinez. Mr. Romero-Santoya separated the men before taking the claimant to the office where he was suspended pending further investigation. On March 18, 2016, the employer notified the claimant his employment was terminated for violating the employer’s zero tolerance of threats or violence policy. Violations of that policy result in immediate termination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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).

The employer has the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1).

The claimant called Mr. Martinez a "motherfucker" and then threatened to stab him in the stomach after Mr. Martinez noticed the claimant falling behind and went over to try to help. Not only did the claimant threaten to stab Mr. Martinez, he was holding a knife when doing so and had the means necessary to carry out his threat making it all the more worrisome. The claimant's actions clearly violated the employer's zero tolerance for workplace violence policy and the claimant was discharged in compliance with that policy.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's

interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The April 20, 2016, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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