

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**APRIL WORRALL**  
Claimant

**SCHAFBUCH, JOSEPH; DE BRUIN, DYLA**  
Employer

**APPEAL 21A-UI-21496-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/22/21**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant, April Worrall, filed an appeal from the September 24, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 17, 2021. The claimant participated. The employer participated through Jessica Kettleson, general manager. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
Did claimant voluntarily quit the employment with good cause attributable to employer?

**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 loan processor beginning April 12, 2021 and was separated from employment on August 25, 2021, when she was discharged.

The final incident which triggered claimant’s discharge was employer observing her being on the work computer, accessing a job search website. This incident occurred on August 10, 2021.

Claimant continued working for two weeks, unaware that the employer was going to discharge her for the August 10<sup>th</sup> conduct. Claimant acknowledged she was looking for jobs but was on her break at the time. Employer delayed its decision to discharge the claimant to allow for an in-person discharge and for scheduling issues.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged for a current act of misconduct.

Iowa law disqualifies individuals who are discharged from employment for misconduct from receiving unemployment insurance benefits. Iowa Code § 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

Iowa Administrative Code rule 871-24.32(1)a provides:

“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).

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 Department of Job Service*, 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. IDJS*, 364 N.W.2d 262 (Iowa 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. IDJS*, 425 N.W.2d 679 (Iowa 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.” *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

Iowa Admin. Code r.871-24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

The most recent incident leading to discharge must be a current act of misconduct in order to disqualify an individual from receiving benefits. This incident must occur within a reasonable

period from the discharge date. The issue is when the employer learned of the current act and did it act to terminate the individual within a reasonable period of time. In this case, the claimant violated reasonable work expectations of searching for a new job while at the workplace, using work resources. Claimant knew or should have known her conduct was contrary to the best interests of the employer.

Although the claimant did engage in a final act of misconduct on August 10, 2021, inasmuch as the employer knew of the incident the same day, did not advise the claimant it was an issue and waited two weeks, the act for which the claimant was discharged was no longer current. The employer cannot on one hand argue that the conduct was so egregious that it warranted discharge instead of a lesser penalty, but then allow the claimant to continue working for almost two months before determining he should be discharged. Because the act for which the claimant was discharged was not current and the claimant may not be disqualified for past acts of misconduct, benefits are allowed.

The question before the administrative law judge in this case is not whether the employer has the right to discharge this employee, but whether the claimant's discharge is disqualifying under the provisions of the Iowa Employment Security Law. While the decision to terminate the claimant may have been a sound decision from a management viewpoint, for the above stated reasons, the administrative law judge concludes that the employer has not sustained its burden of proof in establishing that the claimant's discharge was due to a current act of job-related misconduct. Accordingly, benefits are allowed provided the claimant is otherwise eligible.

**DECISION:**

The September 24, 2021, (reference 01) unemployment insurance decision is REVERSED. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.



---

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

December 29, 2021  
Decision Dated and Mailed

jlb/scn