

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JACK A HABICK**  
Claimant

**BRIDGESTONE AMERICAS TIRE**  
Employer

**APPEAL 15A-UI-00530-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/30/14  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving  
Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 31, 2014 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 10, 2015. Claimant participated. Employer participated through Jim Funcheon, Divisional Human Resources Manager, and Tom Barragan, Divisional Human Resources Manager.

**ISSUE:**

Was the claimant discharged due to job-connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a mill tender beginning in May 17, 2010 through December 5, 2014 when he was discharged.

Employees are routinely notified that they must report to the medical department to pass an equipment operator medical examination. The claimant was told on December 3 to report to the medical department after the first break on his work shift. He reported and gave a urine sample that tested positive for THC. The claimant then told the nurse in the medical department that he was leaving. He did not make any complaints about his diabetes being the reason he needed to leave work. The claimant did not have permission to leave work. All employees who leave work prior to the scheduled end of their work shift must have a pass to present to security personnel. Those who leave before the work shift must have their badges confiscated by security so that when they return to work the human resources department can speak to them about why they left work early. The claimant did not obtain a pass and turned in his badge to security. He was not told by anyone that he was discharged. He was not told to leave the plant, he simply chose to do so after being notified by the company nurse that his drug test was positive. The claimant failed to report to work again and thus was discharged three days later for leaving work without permission.

## 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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant left work without permission on December 2 and then never returned to work again. No one ever told him to leave or that he was discharged until he was notified by letter dated December 5, 2014 that his employment had ended due to his walking off the job. The claimant is not believable when he indicates he had to leave work that night due to his diabetes. He made no complaints about his diabetes at all. He was able to drive himself home. Walking off the job is disqualifying job related misconduct. Benefits are denied.

**DECISION:**

The December 31, 2014 (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.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/can