

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JON C MAPLES
2557 – 315TH ST
HOPKINTON IA 52237**

**ROCKWELL COLLINS INC
ATTN – HR MGR- M/S185-100
901 S 10TH ST
MANCHESTER IA 52057**

**Appeal Number: 04A-UI-03289-H2T
OC 02-29-04 R 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 22, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on April 15, 2004. The claimant did participate. The employer did not participate. Department's Exhibit D-1 was received. Claimant's Exhibit A was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a test technician full time beginning July 29, 1997 through February 27, 2004 when he was discharged for failing to follow the employer's proper test procedures. The claimant admitted that he did not follow the employer's procedures in that he

used non-calibrated equipment and he placed items on the incorrect shelf. The claimant has been previously disciplined for failing to follow the employer's testing procedures on May 29, 2003 and on October 25, 2003. In his latest written warning, the claimant was warned that another incident of failing to follow the correct procedures could result in his termination. The claimant does not deny that he failed to follow the employer's testing procedures on February 11, 2004. The claimant had no medical or work restrictions that prevented him from performing his job.

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 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).

An employer has a right to expect employees to conduct themselves in a certain manner, in this case, they expected the claimant to follow the identified testing procedures. The claimant disregarded the employer's rights by failing to follow the employer's clear explicit testing

procedures for equipment and products. His failure to follow the identified testing procedures means that the employer could unknowingly ship a product that does not work or perform as it should. The claimant's failure to follow the identified testing procedure jeopardizes the integrity of the employer's product. The claimant's disregard of the employer's rights and interests is misconduct. The claimant had two written warnings for the same or similar conduct prior to his termination and was warned that his failure to follow the testing procedures would result in his termination. As such, the claimant is not eligible to receive unemployment insurance benefits. The fact that the claimant has bulging discs does not excuse his misconduct. Bulging discs are not a license to fail to follow the testing procedures.

DECISION:

The March 22, 2004, reference 02, 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.

tkh/kjf