

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS T WILDER
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 15A-UI-11202-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/06/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 1, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 21, 2015. Claimant participated. Employer did not participate.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a material handler from October 23, 2014, and was separated from employment on August 9, 2015, when he was discharged.

On August 9, 2015, claimant and his supervisor got into an argument. At the end of the argument, claimant's supervisor told him to leave the premises. Claimant had received a write-up earlier that day for leaving work early five times. It was discovered that claimant's line had left work early on those five occasions, but claimant was the only one that received a write-up for leaving early. Claimant was also arguing with his supervisor because he had not received payment when he was absent for three days at his father's funeral. Claimant had brought in documentation that he was at the funeral, but the employer still had not paid for the absences. There was no profanity used during the argument, but the argument was loud. At the end of the argument, claimant's supervisor told claimant to leave the premises. Claimant was just told to leave, not that he had been discharged. Claimant's team leader told claimant, after his supervisor told him to leave, that the employer was going to discharge him because of his prior absences. The employer did not tell claimant he was being discharged for absenteeism. Claimant assumed the employer was going to fire him. Claimant did not follow up with the employer to determine if he had been discharged. Claimant did not intend to quit.

Claimant did not believe he was in violation of any attendance policy. Claimant believed the employer was discharging him because of his supervisor's attitude. Claimant understood the employer was discharging him for arguing. Claimant had prior warnings for arguing. Claimant had two prior warnings for arguing with a supervisor. One was a verbal warning in March 2015 and second was a written warning in August 2015. The employer did tell claimant his job was in jeopardy for arguing.

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. Benefits are denied.

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 Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). 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). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate

disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

The employer is entitled to establish reasonable work rules and expect employees to abide by them. The employer had warned claimant on two prior occasions not to argue with his supervisor. The employer even warned claimant that his job was in jeopardy for arguing with his supervisor. On August 9, 2015, claimant ignored this warning and argued loudly with his supervisor. Because of claimant was arguing again with a supervisor, the supervisor told claimant to leave. Claimant then left the premises. According to claimant's testimony, the supervisor did not tell claimant he was discharged, but based on his supervisor's attitude, he got the impression that the supervisor did not want claimant to come back. Claimant believed he was discharged. Claimant was discharged for arguing with his supervisor after having been warned on two separate occasions and after being told his job was in jeopardy because of this conduct. This is disqualifying misconduct. Benefits are denied.

DECISION:

The October 1, 2015, (reference 01) unemployment insurance 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.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/css