

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MATTHEW BRUS

Claimant

APPEAL NO: 18A-UI-03554-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

US BANK NATIONAL ASSOCIATION

Employer

OC: 02/18/18

Claimant: Respondent (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 8, 2018, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 12, 2018. The claimant participated in the hearing. Robert Hartz, Credit 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 credit review specialist for US Bank National Association from April 24, 2017 to February 20, 2018. He was discharged for improperly reporting his time.

The employer received a report that the claimant was working in the building on weekends and had worked January 27, 2018. It sent him an email January 30, 2018, stating he needed to report all time worked. In a weekly staff meeting, the employer said all overtime needed to be approved. The claimant believed the email was referring to his practice of working a few minutes past 5:00 p.m. if he arrived a few minutes past 8:00 a.m. He had also recently made up time for a doctor's appointment and thought the email was also sent in regard to that situation. The email did not mention working weekends. The claimant never claimed overtime. On Saturday, February 10, 2018, the claimant went into work to complete a project due Monday, February 12, 2018, and did not report his time on his time sheet. The employer terminated his employment February 20, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

While the claimant did work at least two weekend days, the email instructing him to report all time worked was so vague the claimant did not realize it was referencing his working on weekends and not claiming it on his time sheet as it did not mention weekend work. Similarly, when overtime was discussed at the weekly staff meeting, the claimant did not make the connection to his working on weekends because he was not claiming any overtime. Additionally, the employer waited ten days to terminate the claimant's employment after he worked Saturday, February 10, 2018, calling into question whether the claimant's actions were a current act of misconduct. Under these circumstances, the administrative law judge must

conclude the claimant's actions do not rise to the level of disqualifying job misconduct as that term is defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The March 8, 2018, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn