

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDSEY M PORTER**  
Claimant

**APPEAL NO: 14A-UI-08577-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF DM**  
Employer

**OC: 07/27/14**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 18, 2014, 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 September 8, 2014. The claimant participated in the hearing. Katie Wolff, Staffing Specialist, 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 production worker for Manpower, last assigned to 3M from January 23, 2014 to July 28, 2014. She was discharged for making an error that stopped production on a machine for two hours.

On July 28, 2014 the claimant sent a tray of buttons through a machine without the required sand paper discs on top of each button which resulted in the press plates being glued together. The claimant realized her mistake immediately and reported the incident to her supervisor who sent her to work on another machine while maintenance was called to disassemble the machine and grind off the buttons glued to the press plates. The client notified Manpower it did not want the claimant to return to that assignment.

On June 19, 2014 the claimant had her quarterly review and the employer addressed the client's perception that the claimant had too much conversation with co-workers during her shift, which resulted in pulling other employees away from their jobs and prevented them from doing their jobs. The employer told the claimant to save her conversations for the break room.

On June 24, 2014 the claimant showed up for work two to three hours earlier than scheduled and went to work. The client told the employer it did not want her to report to work early because it had a set number of machines and a set number of employees for those machines. The claimant indicated the employer worked a great deal of overtime and she was allowed to come in early or stay late to reach the required overtime hours and that she did so on four to five occasions. The employer never reprimanded her for doing so.

The claimant did not receive any written or verbal warnings during her tenure with this employer.

### **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 § 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).

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 clearly made an error in failing to put the sand paper on the buttons which caused a break in production on that machine for two hours while it was disassembled, it was not an intentional act or even one of several mistakes made by the claimant on the machines but rather an isolated incident. Although the employer cited the claimant's quarterly review where she was told not to talk so much on the production floor and another incident when the claimant reported to work early to start her mandatory overtime, the claimant never received a documented verbal or written warning from the client or the employer and did not know her job was in jeopardy.

Under these circumstances, the administrative law judge must conclude the employer has not met its burden of proving disqualifying job misconduct, as that term is defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The August 18, 2014, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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