

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WILLIAM C BALL**  
Claimant

**JOHN DEERE CONSTRUCTION  
EQUIPMENT**  
Employer

**APPEAL 23A-UI-07052-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/18/23**  
**Claimant: Appellant (2R)**

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Iowa Code § 96.5(2)a – Discharge  
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

William C. Ball, the claimant/appellant,<sup>1</sup> filed an appeal from the Iowa Workforce Development (IWD) July 10, 2023 (reference 01) unemployment insurance (UI) decision. The decision denied Mr. Ball REGULAR (state) UI benefits because IWD concluded that the employer discharged him from work on June 21, 2023 for violating a known company rule. On July 20 2023, the Iowa Department of Inspections, Appeals, and Licensing, UI Appeals Bureau mailed a notice of hearing to Mr. Ball and the employer for a telephone hearing scheduled for August 2, 2023.

The undersigned administrative law judge held a telephone hearing on August 2, 2023. Mr. Ball participated personally. The employer did not participate in the hearing. The undersigned took official notice of the administrative record.

**ISSUE:**

Did the employer discharge Mr. Ball from employment for disqualifying, job-related misconduct? May Mr. Ball's claim be backdated prior to June 18, 2023, the effective date of his UI claim?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Ball began working for the employer in 2011. He worked as a full-time assembler. His employment ended on June 21, 2023.

On June 21, Mr. Ball got into an altercation with another employee (Employee A). Mr. Ball took Employee A's cup of coffee from a tractor and threw it away. Employee A was not in the tractor. Employee A got in Mr. Ball's face, yelled profanity at Mr. Ball, chest-bumped Mr. Ball and asked Mr. Ball what he was going to do. Mr. Ball pushed Employee A. Other employees reported the incident to the employer.

Later that day, the employer held a hearing with Mr. Ball. The employer concluded that Mr. Ball initiated the altercation by throwing away Employee A's coffee. The employer's policy prohibits

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<sup>1</sup> Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

employees from fighting. The employer terminated Mr. Ball's employment for pushing Employee A. Mr. Ball had no prior discipline record.

On July 14, the employer rehired Mr. Ball as a full-time assembler. The employer told Mr. Ball that he could not return to work until August 7, but did not give him a reason for this return date. The employer shut down as of July 23 and had no work available for Mr. Ball as of this date. IWD has not investigated or issued a decision about Mr. Ball's eligibility for UI benefits as of July 14 when the employer rehired him.

The undersigned further finds: Mr. Ball filed an initial claim for UI benefits effective June 18, 2023 and he reopened his UI claim effective July 2, 2023. Mr. Ball does not want to backdate his claim before June 18, 2023, the effective date of his UI claim. Mr. Ball wants to be paid UI benefits back to the date when the employer ended his employment on June 21. Mr. Ball does not have an interstate UI claim against another state.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the undersigned concludes the employer discharged Mr. Ball from employment for a reason that does not disqualify him from receiving UI benefits, and Mr. Ball's UI claim may not be backdated.

Iowa Code section 96.5(2)(a) and (d) provide, in relevant part:

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.

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is 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.

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the

claimant is considered as discharged, and the issue of misconduct shall be resolved.

The employer has the burden of proof in establishing disqualifying job misconduct.<sup>2</sup> The issue is not whether the employer made a correct decision in separating the claimant from employment, but whether the claimant is entitled to unemployment insurance benefits.<sup>3</sup> Misconduct must be “substantial” to warrant a denial of job insurance benefits.<sup>4</sup>

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee’s act is misconduct does not rest solely on the interpretation or application of the employer’s policy or rule. A violation of the employer’s policy or rule is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, the employer did not participate in the hearing and provided no evidence of misconduct on the part of Mr. Ball. The evidence establishes that the employer terminated Mr. Ball’s employment because he pushed Employee A after Employee A chest-bumped him and yelled profanity at him. Under these circumstances, this is not misconduct. Since the employer has not established disqualifying job-related misconduct, Mr. Ball is eligible for UI benefits.

The undersigned further concludes Mr. Ball’s UI claim may not be backdated.

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

- (1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

*h.* Effective starting date for the benefit year.

- (1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual’s separation from work, an individual files a claim for benefits.

- (2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim if the claimant filed an interstate claim against another state which has been determined as ineligible.

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<sup>2</sup> *Cosper v. Iowa Dep’t of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

<sup>3</sup> *Infante v. Iowa Dep’t of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

<sup>4</sup> *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

Mr. Ball's UI claim may only be backdated if he filed an interstate UI claim against another state that was determined as ineligible. Mr. Ball has not filed an interstate UI claim, and Mr. Ball does not want his UI claim to be backdated. For these reasons, Mr. Ball's UI claim may not be backdated.

**DECISION:**

The July 10, 2023 (reference 01) UI decision is REVERSED. The employer discharged Mr. Ball from employment for a reason that does not disqualify him from receiving UI benefits. Mr. Ball is eligible for UI benefits, as long as no other decision denies him UI benefits. Any benefits claimed and withheld on this basis shall be paid.

Mr. Ball's UI claim may not be backdated.

**REMAND:**

The issue of Mr. Ball's eligibility for UI benefits as of July 14, 2023 when the employe rehired him is REMANDED (sent back) to the IWD Benefits Bureau for investigation and a decision.



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Daniel Zeno  
Administrative Law Judge

08/03/23  
Decision Dated and Mailed

DZ/jkb

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

**1. Appeal to the Employment Appeal Board** within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

**2.** If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

**1. Apelar a la Junta de Apelaciones de Empleo** dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

**2.** Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.