

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSE JOSLIN**

Claimant

**APPEAL NO: 12A-UI-02553-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MACHINE TOOL ENGINEERING INC**

Employer

**OC: 01-29-12**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 5, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 29, 2012. The claimant participated in the hearing. Robbie Greenlee, Vice-President of Operation, 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 machinist for Machine Tool Engineering from August 30, 2011 to January 27, 2012. The employer was dissatisfied with the claimant's production quantity and quality. At the beginning of January 2012 the claimant had two parts out of ten in his bin that were non-conforming and was ready to ship them. The next operator caught the mistakes or the bad parts would have been shipped to the employer's customer. The employer noticed another part on the claimant's bench that was also bad. On January 27, 2012, Vice-President of Operations Robbie Greenlee showed the claimant where he clamped parts incorrectly which caused dings in the product when he ran them. The claimant felt he was not sufficiently trained on the spider parts, which were a major portion of his job, and consequently did not have the ability to meet the employer's expectations. While Mr. Greenlee did speak to the claimant about his quantity and quality, he never issued the claimant a warning and the claimant was unaware that his job was in jeopardy as he performed to the best of his ability. The employer terminated the claimant's employment January 27, 2012, after the same customer was sent bad parts on three separate occasions which upset the customer greatly and risked the employer's relationship with the customer.

## 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:

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.

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). Failure in job performance due to inability or incapacity is not considered misconduct because the actions were not volitional. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979). Inasmuch as the claimant did attempt to perform the job to the best of his ability but was unable to meet the employer's expectations, no intentional misconduct has been established, as is the employer's burden of proof. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits must be allowed.

**DECISION:**

The March 5, 2012, reference 01, decision is reversed. 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

je/css