

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL T HOLDEFER
Claimant

KPI CONCEPTS LLC
Employer

APPEAL 21A-UI-12058-ED-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/8/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 28, 2021 (reference 02) unemployment insurance decision that found claimant ineligible for benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 25, 2021, at 9:00 am Claimant participated. Employer participated through Chelsea Wallace and Derek Elmore. Employer's Exhibit was admitted. Official notice was taken of the administrative record.

ISSUE:

Was the claimant discharged for disqualifying misconduct?
Did the claimant voluntarily quit for reasons attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time maintenance technician beginning October 26, 2016.

On October 26, 2020, the claimant removed a guard barrier without properly de-energizing a machine. Claimant also entered an authorized area without properly de-energizing a machine. Claimant failed to follow written company policy or procedure for lock out/tag out of the energy control program. Claimant was discharged on for the safety and policy violations. Due to his acts, the claimant's right thumb was injured. Claimant had no previous disciplinary actions at this place of employment. The claimant had been trained on the safety and policy standards at the time of his hire and annually thereafter. Claimant was aware that a violation of the safety and policy standards could result in termination.

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

Iowa Code section 96.5(2)a provides:

Causes for disqualification.

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.

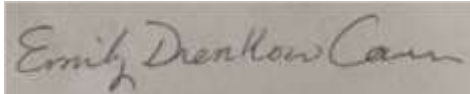
This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000).

Misconduct "must be substantial" to justify the denial of unemployment benefits. *Lee*, 616 N.W.2d at 665 (citation omitted). "Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of benefits." *Id.* (citation omitted). ...the definition of misconduct requires more than a "disregard" it requires a "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." Iowa Admin. Code r. 871-24.32(1)(a) (emphasis added).

The claimant was injured in the right thumb area when he violated the employer's safety policy. The employer's safety policy was implemented for the safety of employees. The claimant made the decision to violate the employer's safety policy. This was deliberate disqualifying misconduct and benefits are denied.

DECISION:

The April 28, 2021, (reference 02) 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.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

August 30, 2021
Decision Dated and Mailed

ed/ol