

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

**MATTHEW J NICHOLS**  
Claimant

**LENNOX INDUSTRIES INC**  
Employer

**APPEAL 24A-UI-03141-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/18/24  
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a – Discharge from Employment

**STATEMENT OF THE CASE:**

On March 21, 2024, employer Lennox Industries Inc. filed an appeal from the March 11, 2024 (reference 01) unemployment insurance decision that allowed benefits, determining the employer dismissed claimant on February 19, 2024 but did not establish willful or deliberate misconduct. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on March 22, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 9:00 a.m. on Thursday, April 11, 2024. Claimant Matthew J. Nichols participated. Chief union steward Matt Morgan testified as a witness on claimant's behalf. Employer Lennox Industries Inc. participated through witness Jenner Bate, HR Manager for Lennox Marshalltown. Jackie Boudreaux represented the employer. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Whether claimant was discharged from employment for disqualifying, job-related misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Lennox Industries Inc. on March 28, 2003. He worked full-time hours as a material handler at the employer's Marshalltown facility. The employer discharged claimant on February 19, 2024, for violating a company work rule prohibiting threatening, intimidating, coercing, or fighting behavior on company property.

On February 15, 2024, claimant went to break with coworker Gretchen, who told him that another coworker, Erin, had recently approached her about him. Specifically, Erin had asked Gretchen whether claimant had ever yelled and screamed at her, as she (Erin) had heard a rumor indicating he did. Gretchen denied that ever happened and told Erin that claimant had always been helpful to her. Erin then told Gretchen that if claimant ever did yell at her, she should turn him in. When claimant heard this from Gretchen, he became upset. He had a history of issues with Erin, and he felt this was Erin's attempt to create more problems for him and get him into trouble.

After the conversation with Gretchen, claimant went and found union steward Morgan and asked him to meet up at the HR office. He then headed upstairs to HR and requested a

meeting with Bate and Sherry Vaughn, as they had been involved with claimant and Erin's prior issues and would have all the background knowledge he believed was important. Morgan arrived upstairs, and the four – claimant, Morgan, Bate, and Vaughn – met in a conference room. When claimant began speaking, Bate and Vaughn rolled their eyes and Bate told him, "We are not going to talk about that," referring to the past incident with Erin. Claimant said that they needed to talk about it as it was all part of an ongoing hostile environment at work. The two went back and forth before Bate ultimately raised his voice and said, "Matt, you're done. We're done talking about this; we're moving on." Claimant then put his palms onto the table and said, "If I'm done, you're done." HE pushed himself up to standing and said, "We're done talking." Claimant pushed in his chair and walked out of the conference room. Morgan stood up and followed him, and Bate and Vaughn followed them.

Once in the hallway, Bate asked claimant to hand over his badge. Claimant initially said no, intending to return to work. Bate then asked for his badge again and claimant replied that he needed to retrieve his personal belongings. Morgan went and gathered claimant's personal items while claimant waited. Claimant then requested the employer give him his check, and he waited while the employer retrieved it for him. While claimant was waiting for his check, HR employee Terry Frederickson and the plant director walked by, and claimant requested to speak with them. The three men headed into the conference room and spoke for approximately one hour. When that conversation concluded, claimant departed. He received a call several days later that he was discharged.

Claimant opened the claim for unemployment insurance benefits effective February 18, 2024. As of the hearing date, he had filed seven consecutive weekly continued claims for benefits, beginning the week ending February 24, 2024; and ending the week ending April 6, 2024. He has received benefits in the amount of \$3,492.00. Iowa Workforce Development held a fact-finding interview at 3:00 p.m. on March 1, 2024.

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

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

Iowa Code section 96.5(2)(a) and (d) provide:

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 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...

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 even 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. Misconduct by an individual includes but is not limited to all of the following:

- (1) Material falsification of the individual's employment application.
- (2) Knowing violation of a reasonable and uniformly enforced rule of an employer.
- (3) Intentional damage of an employer's property.
- (4) Consumption of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in a manner not directed by the manufacturer, or a combination of such substances, on the employer's premises in violation of the employer's employment policies.
- (5) Reporting to work under the influence of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in an off-label manner, or a combination of such substances, on the employer's premises in violation of the employer's employment policies, unless the individual is compelled to work by the employer outside of scheduled or on-call working hours.
- (6) Conduct that substantially and unjustifiably endangers the personal safety of coworkers or the general public.
- (7) Incarceration for an act for which one could reasonably expect to be incarcerated that results in missing work.
- (8) Incarceration as a result of a misdemeanor or felony conviction by a court of competent jurisdiction.
- (9) Excessive unexcused tardiness or absenteeism.
- (10) Falsification of any work-related report, task, or job that could expose the employer or coworkers to legal liability or sanction for violation of health or safety laws.
- (11) Failure to maintain any license, registration, or certification that is reasonably required by the employer or by law, or that is a functional requirement to perform the individual's regular job duties, unless the failure is not within the control of the individual.
- (12) Conduct that is libelous or slanderous toward an employer or an employee of the employer if such conduct is not protected under state or federal law.
- (13) Theft of an employer or coworker's funds or property.
- (14) Intentional misrepresentation of time worked or work carried out that results in the individual receiving unearned wages or unearned benefits.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

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 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. The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). The focus is on deliberate, intentional, or culpable acts by the employee.

The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. Emp't Appeal Bd.*, 531 N.W.2d 645 (Iowa Ct. App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The Iowa Supreme Court has ruled that if a party has the power to produce more explicit and direct evidence than it chooses to present, the administrative law judge may infer that evidence not presented would reveal deficiencies in the party's case. *Crosser v. Iowa Dep't of Pub. Safety*, 240 N.W.2d 682 (Iowa 1976). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I found Morgan's testimony the most credible, as he is a firsthand witness to the events of February 15 but does not have a vested interest in the outcome of this appeal hearing. I relied primarily on Morgan's testimony in understanding what happened during and after the February 15 meeting. When supplemental information was needed, I relied on claimant's testimony over the employer's, as claimant's version of events aligned with Morgan's and was more believable for that reason.

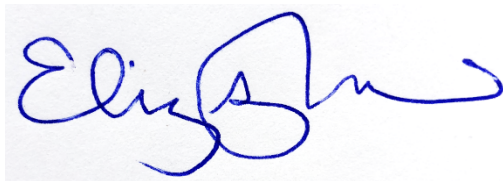
While the employer may discharge an employee for any reason or no reason at all, it will be liable to pay unemployment insurance benefits if it discharges an employee for something other than disqualifying misconduct as defined by Iowa law. That is the case here. Claimant got frustrated that the Bate and Vaughn would not discuss the ongoing issues he was having with Erin and what he viewed as Erin creating a hostile work environment for him. While his behavior during the meeting may not have been perfect, he did not use profanity, act in a threatening or intimidating manner, yell at management, or engage in behavior so disrespectful that immediate discharge was warranted. The employer has not established claimant was discharged from employment for any disqualifying reason. Benefits are allowed.

As benefits are allowed based on this separation, the issues of overpayment and chargeability are moot.

**DECISION:**

The March 11, 2024 (reference 01) unemployment insurance decision is affirmed. The employer discharged claimant from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

The issues of overpayment and chargeability are moot.



---

Elizabeth A. Johnson  
Administrative Law Judge

April 22, 2024  
Decision Dated and Mailed

lj/scn

**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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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/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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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.