

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTIN C WYATT**  
Claimant

**APPEAL NO. 12A-UI-09227-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JOHNSON CONTROLS  
BATTERY GROUP INC**  
Employer

**OC: 07/01/12**  
**Claimant: Respondent (2-R)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated July 23, 2012, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice was issued, a telephone hearing was held on August 23, 2012. The claimant participated. The employer participated by Ms. Lana McMann, human resource manager, and Mr. Lee Fellers, plant controller.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Martin Wyatt was employed by Johnson Controls Battery Group, Inc. from September 16, 2004, until June 29, 2012, when he was discharged from employment. Mr. Wyatt held the position of production control supervisor and was paid by salary. His immediate supervisor was Plant Controller Lee Fellers.

Mr. Wyatt was discharged from his employment based upon a pattern of displaying inappropriate demeanor and conduct toward company employees and outside drivers after being warned.

Mr. Wyatt had been warned and suspended on April 10, 2012, for inappropriate demeanor and statements to company employees and outside drivers and was aware that his employment was in jeopardy. The claimant had received a number of previous warnings based upon repeated complaints that had been made by drivers and workers about Mr. Wyatt's demeanor and his unwillingness to be of assistance or answer questions.

The final incident that caused the claimant's discharge took place on June 28, 2012, when the company received a complaint from a driver that Mr. Wyatt had been rude to him and had yelled at the driver, in violation of the previous warnings that had been served upon him.

It is Mr. Wyatt's position that a change in the company's method of obtaining transportation for its products had caused drivers to complain and cause disharmony, because the drivers had not been properly notified of Johnson Control's expectations prior to arriving at the facility.

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

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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 proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment benefits. The focus is on deliberate, intentional, or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa App. 1992).

In this matter, the evidence in the record establishes that Mr. Wyatt had been repeatedly warned and also counseled in yearly evaluations about the requirement that he perform his duties in a proper manner, displaying a proper attitude toward company employees and outside drivers. In the claimant's job position, outside drivers and employees often were required to come to Mr. Wyatt for work-related information. However, Mr. Wyatt had often been unwilling to provide the information or assistance to company employees or drivers and had, contrary to previous warnings, displayed an improper demeanor, yelling at individuals and failing to provide necessary information. The evidence establishes that the claimant was sufficiently warned by the employer and discharged when he continued to violate the employer's reasonable expectations about his demeanor and the manner in which he performed his duties. Unemployment insurance benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

**DECISION:**

The representative's decision dated July 23, 2012, reference 01, is reversed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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