

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MIRANDA JOHNSON**

Claimant

**APPEAL 21A-UI-02452-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRIDGESTONE AMERICAS TIRE**

Employer

**OC: 03/15/20**

**Claimant: Appellant (2)**

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

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the December 22, 2020 (reference 01) unemployment insurance decision that denied benefits based upon claimant's discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on March 2, 2021. The claimant, Miranda Johnson, participated personally. The employer, Bridgestone Americas Tire, did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a stock cutter from September 7, 2005, until her employment ended on October 1, 2020. Her last day physically worked on the job was September 28, 2020. Claimant's direct supervisor was Jeff Kumsher.

On September 28, 2020, claimant was called into the office by human resources because she had written the wrong tire size on the paperwork the day before. Claimant's foreman, Jeff Knight, was present at the meeting. Claimant did not know she had made the mistake prior to the September 28, 2020 meeting. Claimant was given a three day suspension and then discharged for falsification of paperwork. September 28, 2020, was an unusual day because the machine claimant used had been broken and claimant had been focusing on fixing the machine. Claimant mistakenly wrote the wrong size down. Claimant did not intend to write the wrong tire size down. Claimant did not know her job was in jeopardy.

Claimant had not received discipline during the course of her employment, except for when she was first training years ago.

## 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. Benefits are allowed.

As a preliminary matter, the administrative law judge finds that the Claimant did not quit. Claimant was discharged from employment.

Iowa Code § 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.

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. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

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. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). 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). 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).

In this case, the employer did not participate in the hearing and provided no evidence to support misconduct. Claimant testified that when she wrote the wrong size number, she made a one-time mistake that she had not been disciplined for previously. This is not misconduct.

Iowa Admin. Code r. 871-24.32(8) provides:

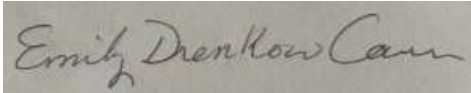
(8) *Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

The purpose of this rule is to assure that an employer does not save up acts of misconduct and spring them on an employee when an independent desire to terminate arises. For example, an employer may not convert a lay off into a termination for misconduct by relying on past acts. *Milligan v. EAB*, 802 N.W.2d 238 (Table)(Iowa App. June 15, 2011).

The employer has failed to meet its burden of proof in establishing a current act of disqualifying job-related misconduct. As such, benefits are allowed.

**DECISION:**

The December 22, 2020 (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

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

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Emily Drenkow Carr  
Administrative Law Judge

March 9, 2021  
Decision Dated and Mailed

ed/scn