

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

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**STUART L BREMER**

Claimant

**APPEAL 25A-UI-02610-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARZETTI MANUFACTURING COMPANY**

Employer

**OC: 03/09/25**

**Claimant: Respondent (1)**

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Iowa Code § 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

Marzetti Manufacturing Company, the employer/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) March 28, 2025 (reference 01) unemployment insurance (UI) decision. IWD found Stuart L. Bremer eligible for REGULAR (state) UI benefits because IWD concluded the employer dismissed Mr. Bremer from employment on January 23, 2025 for a reason that does not disqualify him from receiving UI benefits. The employer appealed on April 3, 2025. On April 4, 2025 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Mr. Bremer for a telephone hearing scheduled for April 22, 2025.

The administrative law judge held a telephone hearing on April 22, 2025. The employer participated in the hearing through Chad Vanhauen, human resources (HR) manager. Mr. Bremer participated in the hearing personally. The administrative law judge took official notice of the administrative record from IWD and admitted Employer's Exhibit 1 as evidence.

The administrative law judge concludes Mr. Bremer is eligible for REGULAR (state) UI benefits based on how his job ended with this employer, the issues of overpayment and repayment are moot.

**ISSUES:**

Did the employer discharge Mr. Bremer from employment for disqualifying job-related misconduct?

Did IWD overpay Mr. Bremer REGULAR (state) UI benefits?

If so, should he repay the benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Bremer began working for the employer in August 2019. He worked as a full-time maintenance manager. His employment ended on January 24, 2025.

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<sup>1</sup> Appellant is the person or employer who appealed.

In December 2024, Mr. Bremer, Mr. Vanhauen and the plant manager received a complaint from a maintenance technician (tech) alleging that the maintenance supervisor was bullying and harassing a third maintenance tech. The maintenance supervisor reported to Mr. Bremer. HR staff began an investigation. As HR staff investigated, they concluded that multiple maintenance employees violated the employer's non-harassment policy.

The employer's policies prohibit harassment and discrimination, and requires managers to enforce the employer's policies. The policy further provides that an employee who violates the policies is subject to discipline from the employer up to and including terminating the employee's employment. Mr. Bremer most recently acknowledged receiving a copy of the policies in June 2024.

HR staff interviewed Mr. Bremer to learn what he knew or didn't know and when about maintenance employees violating the employer's policy. Mr. Bremer stated that was aware of the employer's harassment policy, but he couldn't change people's behavior or enforce the employer's policy. Mr. Bremer further stated that he had to look out for himself and he didn't speak up about the alleged policy violations because he wanted to keep his job.

The employer concluded that Mr. Bremer violated the employer's policy when he did not enforce the employer's policies. On January 24, Mr. Vanhauen and the plant manager told Mr. Bremer that his job was over for violating the employer's policies. Mr. Bremer had no prior discipline record.

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

For the reasons that follow, the administrative law judge concludes the employer discharged Mr. Bremer from employment on January 24, 2025 for a reason that does not disqualify him from receiving UI benefits, and the issues of overpayment and repayment are moot.

Iowa Code section 96.5(2)(a) and (d) provide, in relevant part:

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.

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 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.

The employer has the burden of proof in establishing disqualifying job misconduct.<sup>2</sup> The issue is not whether the employer made a correct decision in separating Mr. Bremer from employment, but whether he is entitled to unemployment insurance benefits.<sup>3</sup> Misconduct must be “substantial” to warrant a denial of job insurance benefits.<sup>4</sup>

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all, if it is not contrary to public policy. But, if the employer fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for UI benefits related to that separation. A decision about 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 of the employer’s policy or rule 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.

An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing they need to make changes to keep their job. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Training or general notice to staff about a policy is not considered a disciplinary warning.

In this case, the employer had not previously warned Mr. Bremer about the issue that led the employer to end his employment. The employer has not met the burden of proof to establish that Mr. Bremer acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. Mr. Bremer is eligible for UI benefits.

Since Mr. Bremer is eligible for REGULAR (state) UI benefits per this decision, the issues of overpayment and repayment are moot. An issue being moot means there is nothing left to decide.<sup>5</sup>

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<sup>2</sup> *Cosper v. Iowa Dep’t of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

<sup>3</sup> *Infante v. Iowa Dep’t of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

<sup>4</sup> *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

<sup>5</sup> *Iowa Bankers Ass’n v. Iowa Credit Union Dep’t*, 335 N.W.2d 439, 442 (Iowa 1983).

**DECISION:**

The March 28, 2025 (reference 01) UI decision is AFFIRMED. The employer discharged Mr. Bremer from employment on January 24, 2025 for a reason that does not disqualify him from receiving UI benefits. Mr. Bremer is eligible for REGULAR (state) UI benefits, as long as no other decision denies him UI benefits.

/s/ *Daniel Zeno*

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Daniel Zeno  
Administrative Law Judge

April 23, 2025  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with this 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/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**

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 adquiera 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.