IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU

LELAND M SEARLES Claimant **SAC & FOX TRIBE** Employer	**APPEAL NO. 24A-UI-07846-JT-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 07/21/24** **Claimant: Respondent (2)**

Iowa Code Section 96.5(2)(a) & (d) – Discharge for Misconduct
Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

On September 3, 2024, the employer filed a timely appeal from the August 23, 2024 (reference 01) decision that allowed benefits to the claimant, provided the claimant met all other eligibility requirements, and that held the employer's account could be charged for benefits, based on the IWD deputy's conclusion that the claimant was discharged on July 23, 2024 for no disqualifying reason. After due notice was issued, a hearing was held on September 19, 2024. Leland Searles (claimant) participated. Lucie Roberts represented the employer and presented additional testimony through Joan Flecksing. Exhibits 1 through 5 were received into evidence. The administrative law judge took official notice of the following agency administrative records: DBRO & KFFV. The administrative law judge took official notice of the fact-finding materials for the limited purpose of documenting the employer's participation in the fact-finding interview.

ISSUES:

Whether the claimant was discharged for misconduct in connection with the employment.
Whether the claimant was overpaid benefits.
Whether the claimant must repay overpaid benefits.
Whether the employer's account may be charged.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Leland Searles (claimant) was employed by Sac & Fox Tribe of the Mississippi in Iowa (Meskwaki Nation) as a full-time Environmental Specialist Senior from January 2023 until July 23, 2024, when Joan Flecksing, Director of Meskwaki Nation Department of Natural Resources, discharged him from the employment. Ms. Flecksing was Mr. Searles' supervisor throughout the employment. Mr. Searles was responsible for performing programmatic "deliverables" in connection with United States Environmental Protection Agency (EPA) grants pertaining to air quality, water quality, and general natural resources management. The work

involved data collection in the field and preparation of reports. Mr. Searles supervised two subordinates: an Environmental Specialist, David, and an intern, Donica.

The employer considered many incidents involving Mr. Searles when making the decision to discharge him from the employment.

The employer initially cites as the final incident that triggered the discharge an interaction with Mr. Searles on the morning of July 23, 2024. Though the employer had already decided to discharge Mr. Searles at the time of the July 23, 2024 incident, the employer had not yet communicated that decision to Mr. Searles. During a telephone call that morning, Mr. Searles expressed dissatisfaction that the employer had provided him a removable computer hard drive without providing a cord to connect the hard drive to his computer. Mr. Searles had another removable hard drive that he used for his work. Ms. Flecksing told Mr. Searles to use the cord from the first hard drive to connect the second hard drive to the computer. During the July 23, 2024 telephone call, Ms. Flecksing and Mr. Searles discussed water sampling plans for that morning. Ms. Flecksing then stated that she needed to meet with Mr. Searles later that morning. Ms. Flecksing planned to meet with Mr. Searles and with Lucie Roberts, Human Resources Specialist, to discharge Mr. Searles from the employment. Ms. Flecksing did not tell Mr. Searles the purpose of the meeting planned for later that morning. At the time of the July 23 call, Mr. Searles was mindful of the field work that needed to be completed that morning to satisfy a grant requirement and was mindful that rain was expected that afternoon. Mr. Searles was also mindful that the scheduling of prior meetings had been flexible to factor other work duties. Mr. Searles asked whether the meeting could be scheduled for the afternoon and asserted a meeting was a waste of his time. Ms. Flecksing stated the meeting would occur at 11:00 a.m. Mr. Searles then abruptly hung up on Ms. Flecksing. Ms. Flecksing promptly called Mr. Searles back and then terminated the call with the understanding that the pair would meet at 11:00 a.m.

At 11:00 a.m. on July 23, 2023, Ms. Flecksing met with Mr. Searles to discharge him from the employment. Ms. Flecksing presented Mr. Searles with a Disciplinary Notice. See Exhibit 1. The discharge document asserted that Mr. Searles (1) had repeatedly failed to follow verbal and written directives, (2) had repeatedly expressed dissatisfaction with Ms. Flecksing's guidance and directives, (3) had questioned, debated and provided an argumentative response to Ms. Flecksing's leadership, (4) had expressed aggression toward Ms. Flecksing through use of sarcasm, argumentativeness and disagreement, and (5) had used "the F word" in an aggressive tone in an attempt to end a July 19, 2024 conversation with Ms. Flecksing.

The employer had provided Mr. Searles an employee handbook at the start of the employment. Mr. Searles was at all relevant times aware of the rules set forth in the handbook. The handbook included a provision regarding insubordination:

> Insubordination. Employees are expected to follow supervisory directives. Failure to do so is considered insubordination. It is also considered insubordination when employees exhibit behavior that is uncooperative, disrespectful or unethical.

See Exhibit 3. The employee handbook also included a provision that requires employees to perform their duties ethically, respectfully, and cooperatively and that prohibits use of profanity in the workplace.

On the morning of July 19, 2024, Mr. Searles had entered Ms. Flecksing's open office door way at a time when Ms. Flecksing was meeting with members of the Meskwaki Nation police department. Mr. Searles misunderstood the gathering to be casual in nature, in keeping with his

experience of similar prior gatherings. Mr. Searles attempted to join what he perceived to be a casual conversation by stating that he was in need of "serious rehydration" and by talking about his return trip from Lincoln, Nebraska the previous evening. Rather than have Mr. Searles excuse himself from the gathering, Ms. Flecksing elected to end the meeting with the police officers. Mr. Searles remained in the office doorway and offered additional casual comments. Mr. Searles mentioned that he had consumed three alcoholic drinks the previous evening. Mr. Searles had sent a text message to Ms. Flecksing at 10:41 p.m. on July 18, 2024. Ms. Flecksing was displeased to receive the late-evening message.

On July 19, Ms. Flecksing had Mr. Searles sit down so that she could discuss concerns she had about Mr. Searles' recent behavior. Mr. Searles had been late for two meetings with United States EPA representatives while in Lincoln, Nebraska on July 17 and 18. The purpose of Mr. Searles' presence in Lincoln was for Mr. Searles to represent Meskwaki Nation DNR in meetings with the federal authorities by fielding questions and asking questions. On July 17, 2024, Mr. Searles was 15 minutes late for an 8:00 a.m. meeting Mr. Searles had lost track of time while eating breakfast. On July 18, 2024, Mr. Searles was five minute late to a meeting. On July 18, Mr. Searles rode from the hotel to the meeting with his subordinate, David. Mr. Searles attributes his late arrival at the meeting to an unknown issue the subordinate had with a parking meter. During the July 19, 2024 meeting, Mr. Searles offered these explanations to Ms. Flecksing regarding his tardiness to the meetings.

During the meeting on July 19, 2024, Ms. Flecksing mentioned to Mr. Searles an earlier written warning. Ms. Flecksing asserted that Mr. Searles was in the habit of speaking to her in a sarcastic, condescending manner and asserted that another administrator had recently witnessed Mr. Searles speaking to Ms. Flecksing in a condescending and rude manner. Mr. Searles responded, "What the fuck is there to do about this now?" Ms. Flecksing was taken aback by the inclusion of the profanity in the response and interpreted the utterance as Mr. Searles' attempt to terminate the interaction before Ms. Flecksing was ready. Mr. Searles then attempted to turn the discussion into tit-for-tat criticism by asserting that Ms. Flecksing was in the habit of calling him a liar. Ms. Flecksing denied calling Mr. Searles a liar but asserted there had been times when he had not told her the truth and that she had pointed this out. Ms. Flecksing asserted that she frequently found herself needing to explain herself to Mr. Searles, while Mr. Searles remained argumentative and made excuses. Mr. Searles asserted the conversation taking place at that moment was a waste of his time. Ms. Flecksing responded that Mr. Searles conduct and manner of interacting with Ms. Flecksing was impacting how his subordinates acted in the workplace. Ms. Flecksing asked Mr. Searles whether he thought Ms. Flecksing could speak to her boss the way that Mr. Searles spoke to her. Ms. Flecksing then ended the meeting.

In making the decision to discharge Mr. Searles from the employment, Ms. Flecksing considered Mr. Searles' July 22, 2024 attempt to use a doorless utility vehicle to perform field work despite Ms. Flecksing's prior directive not to use the particular vehicle for that purpose. Mr. Searles had decided the doorless UTV was most appropriate available vehicle. Ms. Flecksing stopped Mr. Searles before he left the DNR parking lot.

Ms. Flecksing considered several earlier incidents when making the decision to discharge Mr. Searles from the employment.

In making the decision to discharge Mr. Serles from the employment, Ms. Flecksing considered Mr. Searles conduct on May 9, 2024 regarding a damaged drone. Mr. Searles had accidentally damaged a bracket on the $30,000.00-35,000.00 drone. Rather than report the damage to Ms. Flecksing so that she could be aware of the damage and facilitate a solution, Mr. Searles

elected not to tell Ms. Flecksing about the damage and to try to repair the drone on his own. When Ms. Flecksing learned about the damaged drone, she asked whether Mr. Searles planned to tell her about the damage and then had him stop his attempted repair. Mr. Searles said he planned to tell her about the matter after he had resolved it.

In making the decision to discharge Mr. Searles from the employment, Ms. Flecksing considered a written warning she issued to Mr. Searles on May 30, 2024 in response to comments made by Mr. Searles. During a conversation with Ms. Flecksing and the other Environmental Specialist, David, which conversation touched on Parkinson's disease, Ms. Searles made reference to two lobes at the base of the brain and drew a similarity to the structure of female breasts. After Ms. Flecksing asked Mr. Searles to stop discussing female breasts, Mr. Searles and David elected to ignore the request. In an effort to continue the reference to female breasts, David referenced Grand Teton but made Teton plural (Tetons). Mr. Searles continued to talk about mammary glands and asserted that environmental science discourse sometimes related ecological functions to human sexual functions. On May 30, 2024, Ms. Flecksing sent an email message asking Mr. Searles asking him to "cease the use of references to human sexual reproductive organs in any manner in your communication style while at work." See Exhibit 2.

In making the decision to discharge Mr. Searles from the employment, Ms. Flecksing considered Mr. Searles' June 11, 2024 response to her directive that he and the other Environmental Specialist teach the intern to draft Facebook content for the Meskwaki Nation DNR webpage as part of fulfilling a grant "deliverable." Mr. Searles expressed his displeasure in the presence of the other Environmental Specialist when he stated, "So I don't get to do this anymore."

In making the decision to discharge Ms. Searles from the employment, Ms. Flecksing considered an incident during the week of June 24, 2024, where her directive and request for a utility vehicle full of sage to be used in a community event yielded only a small bundle of sage. Ms. Flecksing had directed Donica, the intern, to collect the sage. Ms. Flecksing told Mr. Searles and the other Environmental Specialist, David, about the directive. Ms. Flecksing needed enough sage to hand out to a group of 100. Mr. Searles decided to have another person, a male member of the Meskwaki nation not under Mr. Searles' supervision, assist with collecting the sage. That person collected a small bundle of sage without involving Donica. Though Mr. Searles intervened to change Ms. Flecksing's directive, he neglected to follow up to see whether the quantify of sage collected complied with Ms. Flecksing's directive. It did not. Mr. Searles attributes the outcome to gender hierarchy within the Meskwaki nation, rather than to his failure to ensure compliance with Ms. Flecksing's directive after intervening.

In making the decision to discharge Mr. Searles from the employment, Ms. Flecksing considered a June 27, 2024 incident wherein Mr. Searles picked up paychecks intended for police department personnel and brought them the DNR facility. In May 2024, Ms. Flecksing told Mr. Searles of a change in the employer's paycheck handling procedure. At that time, Mr. Flecksing told Mr. Searles that there was no need for him to collect checks from the finance department and bring them the DNR. The finance department kept the checks in labeled cubbies assigned to the individual departments. On June 27, Mr. Searles elected to ignore Ms. Flecksing's directive, grabbed checks from the wrong department cubby, signed for receipt of the checks, and brought the checks to the DNR, which moved the checks 10 miles from the police department. Ms. Flecksing had to take steps to redirect the checks to the police department.

In making the decision discharge Mr. Searles from the employment, Ms. Flecksing considered a July 2, 2024 Facebook post Mr. Searles had made to the Meskwaki Nation DNR Facebook page to share information about a job posting without first seeking her approval. Mr. Searles was

aware that all posts to the Facebook page had to be approved by Ms. Flecksing. Mr. Searles implausibly asserts that he was under the belief that Ms. Flecksing had provided verbal approval to share the post. Mr. Searles elected not to send Ms. Flecksing a copy of the post for her approval prior to sharing the post.

In making the decision to discharge Mr. Searles from the employment, Ms. Flecksing considered Mr. Searles handling of a travel claim/request for one of his subordinates, the newly employed intern, Donica. Mr. Searles sent an email message to Ms. Flecksing asking for guidance in filing the claim/request, though Ms. Flecksing had included in one or more earlier email messages the guidance Mr. Searles was now seeking. On July 2, 2024, Ms. Flecksing sent an email message to Mr. Searles telling him to review her previous emails on the topic. The travel claim in question needed to be completed by July 3, prior to employer's Fourth of July closure, in order for the intern to participate in the U.S. EPA meetings set to begin on July 16, 2024 in Lincoln, Nebraska. On the morning of July 3, 2024, Ms. Flecksing notified staff, including Mr. Searles of her plan to leave work at 3:15 p.m. that day. Rather than complete the time-sensitive form himself, Mr. Searles delegated that task to the intern but neglected to supervisor the task, which resulted in multiple errors being included in the travel claim/request and the claim/request being rejected and returned at least twice for corrections. At 2:50 p.m. on July 3, Mr. Searles asked whether there was still time to get Donica's travel claim/request approved if he got it to Ms. Flecksing before she left for the day. At 3:00 p.m., Ms. Flecksing told Mr. Searles she was not going to spend more time on the matter, which meant the intern would not be authorized to attend the EPA meeting in Lincoln, Nebraska.

On July 9, 2024, Ms. Flecksing told Mr. Searles directly that his failure to follow her directives was insubordination.

Mr. Searles established an original claim for benefits that Iowa Workforce Development deemed effective July 21, 2024. IWD set the weekly benefit amount at $602.00. IWD paid and Mr. Searles received $5,232.00 in benefits for nine weeks between July 21, 2024 and September 28, 2024. This employer is the sole base period employer.

On August 16, 2024, Iowa Workforce Development Benefits Bureau held a fact-finding interview that address the claimant's separation from the employment. Lucie Roberts, Human Resources Specialist, represented the employer at the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(2)(a) and (d) provides as follows:

> 2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
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> 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 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. Misconduct by an individual includes but is not limited to all of the following:
>
> …
> (2) Knowing violation of a reasonable and uniformly enforced rule of an employer.
> …

See also Iowa Admin. Code r. 871-24.32(1)(a) (repeating the text 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. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). 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 Ct. App. 1992).

While past acts and warnings can be used to determine the magnitude of the current act of misconduct, a discharge for misconduct cannot be based on such past act(s). The termination of employment must be based on a current act. See Iowa Admin. Code r.871 24.32(8). In determining whether the conduct that prompted the discharge constituted a "current act," the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*, 426 N.W.2d 659, 662 (Iowa App. 1988).

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. See 871 IAC 24.32(4).

An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the employee from receipt of unemployment insurance benefits. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995). Use of foul language can alone be a sufficient ground for a misconduct disqualification for unemployment benefits. *Warrell v. Iowa Dept. of Job Service*, 356 N.W.2d 587 (Iowa Ct. App. 1984). An isolated incident of vulgarity can constitute misconduct and warrant disqualification from unemployment benefits, if it serves to undermine a superior's authority. *Deever v. Hawkeye Window Cleaning, Inc.*, 447 N.W.2d 418 (Iowa Ct. App. 1989).

Continued failure to follow reasonable instructions constitutes misconduct. See *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. See *Woods v. Iowa Department of Job Service*, 327 N.W.2d 768, 771 (Iowa 1982). The administrative law judge must analyze situations involving alleged insubordination by evaluating the reasonableness of the employer's request in light of the circumstances, along with the worker's reason for non-compliance. See *Endicott v. Iowa Department of Job Service*, 367 N.W.2d 300 (Iowa Ct. App. 1985).

The weight of the evidence in the record establishes a July 23, 2024 discharge for misconduct in connection with the employment. The evidence in the record establishes a long-standing pattern of Mr. Searles unreasonably refusing to follow reasonable employer directives, along with other conduct indicating intentional and substantial disregard of the employer's interests.

Mr. Searles intentionally and unreasonably withheld from Ms. Flecksing the information that he had damaged the $30,000-35,000.00 drone until Ms. Flecksing discovered the damage on May 9, 2024.

On May 30, 2024, Mr. Searles knowingly and without a reasonable basis made reference to female anatomy with the intention of making Ms. Flecksing uncomfortable during a conversation that also involved Mr. Searles' male subordinate. Mr. Searles' conduct encouraged the subordinate to engage in similar conduct during the same conversation. Mr. Searles knowingly and without a reasonable basis continued the reference to female anatomy after Ms. Flecksing asked him to stop. Ms. Flecksing correctly identified the behavior as a form of sexual harassment.

Some of Mr. Searles unprofessional conduct did not rise to the level of intentional and substantial disregard of the employer's interests. One such example was Mr. Searles June 11, 2024 petulant utterance about the intern helping with the Facebook posts.

On June 24, 2024, Mr. Searles knowingly and unreasonably interfered with and undermined Ms. Flecksing's reasonable directive that the intern gather a large quantity of sage for the community event. Mr. Searles was negligent in failing to ensure compliance with the directive.

On June 27, 2024, Mr. Searles knowingly and unreasonably disobeyed Ms. Flecksing's directive not to collect paychecks from the finance office and, in so doing, hindered proper distribution of the police department paychecks.

On July 2, 2024, Mr. Searles knowingly and unreasonably disobeyed Ms. Flecksing's standing directive that all proposed posts to the Meskwaki Nation Facebook page be routed to her for her approval.

Mr. Searles engaged in a pattern of negligent, careless, and unreasonable conduct in his handling of the intern's travel claim/request over the period of July 2-3, 2024. Mr. Searles was well aware of the time-sensitive nature of the project and that the claim/request needed to be submitted with accurate and complete information the first time it was submitted. Mr. Searles began by unreasonably disregarding the guidance Ms. Flecksing had previously provided through prior emails. Mr. Searles then unreasonably delegated responsibility for the task to the new intern while neglecting to provide proper supervision of the task. Mr. Searles' unreasonable actions drew out the process to the point where the clock ran out on completing the time-sensitive task, to the detriment of the intern and the employer.

Mr. Searles was careless and negligent in failing to report on time for the July 17 and 18, 2024 U.S. EPA meetings, which late arrivals reflected negatively on the employer.

Mr. Searles' decision to include the profane utterance during the July 19, 2024 meeting with Ms. Flecksing was intended to undermine Ms. Flecksing's supervisory authority and was part of an ongoing pattern of undermining Ms. Flecksing's supervisor authority. Mr. Searles undermining behavior during that meeting included telling Ms. Flecksing the meeting was a waste of his time.

On July 22, 2024, Mr. Searles knowingly and unreasonably disobeyed Ms. Flecksing's reasonable directive not to use the doorless utility vehicle for field work. Mr. Searles would have continued in the insubordinate behavior but for Ms. Flecksing intervening before he left the parking lot.

On July 23, 2024, Mr. Searles knowingly and intentionally communicated with Ms. Flecksing in a patently offensive manner by telling her the planned meeting was a waste of his time and by hanging up on her.

The pattern of conduct was sufficient to establish disqualifying misconduct in connection with the employment. Mr. Searles' dubious assertion that his misconduct originated from undiagnosed or self-diagnosed "neurodivergence" is without merit. Mr. Searles' assertion that his conduct originated from a medicated depressed stated is also without merit. Mr. Searles assertion that his misconduct was based in part on hearing loss, though there may in fact be some level of hearing loss, is also without merit. Rather, the pattern derived from a fundamental disregard of Ms. Flecksing's supervisory authority. The weight of the evidence indicates that Ms. Flecksing's female gender was a factor in Mr. Searles' pattern of behavior. Mr. Searles is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Searles must meet all other eligibility requirements.

The administrative law judge will now address the matter of overpaid benefits. Iowa Code section 96.3(7) provides in relevant part as follows:

> 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)
>
> (a) 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. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.
> (b) 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.

Iowa Administrative Code rule 87124.10(1) and (4), regarding employer participation in fact-finding interviews, provides as follows:

> Employer and employer representative participation in fact-finding interviews.
> 24.10(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.
> …
> (4) "Fraud or willful misrepresentation by the individual," as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

Because his decision disqualifies Mr. Searles for the $5,232.00 in benefits that Mr. Searles received for nine weeks between July 21, 2024 and September 28, 2024, those benefits are an overpayment of benefits. Because the employer participated in the fact-finding interview, Mr. Searles must repay the overpaid benefits. The employer's account is relieved of charges, including charges for benefits already paid to Mr. Searles.

DECISION:

The August 23, 2024 (reference 01) decision is REVERSED. The claimant was discharged on July 23, 2024 for misconduct in connection with the employment. The claimant is disqualified for unemployment benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The claimant is overpaid $5,232.00 in benefits for nine weeks between July 21, 2024 and September 28, 2024. The claimant must repay the overpaid benefits. The employer's account is relieved of charges, including charges for benefits already paid to the claimant.

James E. Timberland
Administrative Law Judge

October 4, 2024
Decision Dated and Mailed

JET/jkb

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:

Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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.

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:

Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 está en línea en https://www.legis.iowa.gov/docs/code/17A.19.pdf.

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.