

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

JAMES A HOWES  
3613 WESTERN PINE DR  
CEDAR RAPIDS IA 52402 1825

ROCKWELL COLLINS INC  
c/o TALX UCM SVCS INC  
PO BOX 283  
ST LOUIS MO 63166 0283

Appeal Number: 06A-UI-02945-DWT  
OC: 02/12/06 R: 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

James A. Howes (claimant) appealed a representative's March 2, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Rockwell Collins, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 6, 2006. The claimant participated in the hearing with his subpoenaed witness, Bryan Balog. Gordon Davis, the manager of fabrication, and Scott Holmes, the labor relations specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 21, 1998. The claimant worked as a full-time industrial engineer. The claimant's supervisor was Gene Nedved.

The last three years of the claimant's employment, the claimant dealt with personal stress, which may have affected his conduct at work. The employer recognized the claimant's family issues and attempted to work with him. In August 2005, the employer recommended that the claimant take an anger management class because the claimant had problems getting along with some employees. The claimant took the class and believed the class helped him.

In November 2005, after Davis learned the claimant had raised his voice to a co-worker and stormed out of a lab, he talked to the claimant. Davis informed the claimant he had been rude and unprofessional to a co-worker and conduct of a similar nature would not be tolerated. There were no similar incidents until January 26, 2006.

The claimant's aunt and father passed away in early January. The claimant had been back to work about a week, when an auditor from a customer came to review the employer's procedures on January 26. The auditor was there because a customer had some problems with the employer's product. The audit revealed a piece of equipment did not have a calibration tag on it. Dennis Jasper, the manager in control of this department, in addition to the team who performed the audit, went to the claimant to ask the claimant about the calibration tag. The claimant admits he was short when asked this question because he told the team, including Jasper, that he did not have enough help with all his job duties, he did not have time to do this kind of trivial work, which was clerical work, and this could have been done by anyone in the office.

When the outside auditor gave his final report to senior management, he reported that one individual, the claimant, had not only treated him rudely and embarrassed him, but that he had never been treated like this by anyone else.

The employer suspended the claimant on January 27 to investigate the January 26 incident. The claimant admitted he had been short when he was asked about the calibration tag. After the employer reviewed the claimant's records, the employer discharged the claimant because he had previously been counseled and warned about rude and unprofessional behavior at work. On January 31, 2006, the employer discharged the claimant for repeated rude and unprofessional behavior at work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but

the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

In November, when Davis talked to the claimant about his unprofessional conduct, the claimant understood the employer would not tolerate any further inappropriate or unprofessional behavior from the claimant. On January 26, the claimant admits his comments to an outside customer were inappropriate. When the manager of the department, Jasper, brought the team to the claimant to ask about the calibration tag, the claimant may have been stressed about other parts of his job. This may, in part, have been due to the fact he had recently returned from bereavement leave. The facts also indicate the claimant was short-staffed or at least felt he was short-staffed.

After the outside auditor reported his perception of how the claimant treated him to senior management, the employer established compelling business reasons for discharging the claimant. The claimant's comments were not only short, but they were also inappropriate and unprofessional. If the claimant had only made the comments to Jasper, the head of that department, the outcome in this case may have been different. In this case, the claimant made the comments to people who did not work for the employer. At least one person worked for one of the employer's customers because of problems experienced with at least one of the employer's products. When the claimant was curt to this person to the degree that the person made a special point of reporting the claimant's conduct in his final report to senior management, the claimant's behavior on January 26 constitutes work-connected misconduct. As of February 12, 2006, the claimant is not qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's March 2, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of February 12, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/kkf