

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CHRISTOPHER D STRICKLAND**  
Claimant

**FISHER CONTROLS INTERNATIONAL LLC**  
Employer

**APPEAL 15A-UI-02627-H2**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/08/15**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 19, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. An in person hearing was held on April 7, 2015 in Des Moines, Iowa. Claimant participated and was represented by Kevin Weese, Union Shop Committee Representative. Employer participated through Steve Martin, Director of Human of Human Resources; Aaron Vodenick, Supervisor; and Ross Hartwig, Supervisor.

**ISSUE:**

Was the claimant discharged due to job-connected 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 large value stream assembler beginning on August 23, 2004 through February 5, 2015 when he was discharged.

The claimant had bid into a new job moving from the first shift to the second shift. Each employee is assigned a work location or “work bench.” Mr. Vodenick, who was going to be his new supervisor, specifically told the claimant the location of the work bench he would be assigned to if he opted to bid into the new job. The claimant was given accurate information as to the location of the new job prior to accepting the bid. The claimant alleged that he was told by Carol in human resources that he would be working at a different bench. Carol told Mr. Martin, her supervisor, that she had told the claimant he would be working at the same bench that Mr. Vodenick had told him about. The claimant was not allowed to pick and choose his work location or where his work bench would be. The claimant had the option if he thought he was being assigned to work at the wrong work bench, to file a grievance. The claimant was well aware of the grievance procedure and his options under the union contract as he had been a union steward previously.

The claimant had been given a copy of and training on the employer's policies and procedures. He knew that the employer had a zero tolerance policy on any workplace threat of violence, whether implied or open, direct or indirect. No threatening behavior would be tolerated. The claimant had been previously disciplined, including a two-week suspension in August 2014. At that time he was warned that any further rule infractions could lead to his discharge.

On February 3 the first day on his new job, the claimant had work still at his old work bench. His new supervisor told him the location of his new work bench, which was the same location he had been told of previously. The work bench where the claimant would be working was the location where the employee he was replacing had performed the job previously. The claimant became upset because he did not want to work at that bench because he did not like the employee on first shift who he would be sharing the work bench with. The claimant knew prior to that time where the bench was because he had been given that information by both Mr. Vodenick and by Carol in human resources.

When Mr. Vodenick told the claimant he needed to move to his new work bench, the claimant began to yell at Mr. Vodenick and point his finger in his face. Mr. Vodenick felt threatened by the claimant and thought the claimant was going to punch him. Mr. Hartwig, who was brought in as a witness, did not feel threatened by the claimant's actions but it was not Mr. Hartwig who the claimant was upset with it. It was Mr. Vodenick. The claimant was walking aggressively toward Mr. Vodenick and said to Mr. Hartwig, you are a witness. The claimant then told Mr. Vodenick he was putting in his two-week notice. Mr. Hartwig gave the claimant a piece of paper to write down that he was quitting but he was told not to by his union steward. The claimant refused a direct order by Mr. Vodenick to move to the correct work station. When he did finally comply, he threatened Mr. Vodenick. The employer increased plant security after the claimant's blow up that night as more than Mr. Vodenick felt the claimant would retaliate.

The claimant was not calm in his dealing with the employer and his supervisor. Everything about his actions indicates his intent to intimidate and threaten his supervisor because he simply did not want to work at the assigned work station. He had been given at least two prior warnings for the same or similar conduct. The last was in August 2014 when he was suspended for two weeks.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The administrative law judge is persuaded that the claimant had been told by both Mr. Vodenick and by Carol where his work bench would be if he bid and accepted the new job. The claimant was being asked to work in the same location as the employee he was replacing. The claimant began to raise his voice, move toward his supervisor in a threatening manner, and shake his finger in both managers' faces; in a simple attempt to intimidate them into giving him what he wanted. Mr. Vodenick honestly believed at one point the claimant was going to punch him. The claimant's acted in a manner contrary to the employer's policies. The administrative law judge is persuaded that the claimant may not have made a verbal threat but through all of his actions, the tone and volume of his voice, his finger shaking, and his approach to the manger were an implied threat. The claimant had been previously warned that even one more rule violation could lead to his discharge. The claimant's actions amount to sufficient job-connected misconduct to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The February 19, 2015 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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