

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AARON E MORNEY**  
Claimant

**APPEAL 20A-UI-12575-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN PERFECTION LC LTD**  
Employer

**OC: 06/14/20**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact Finding Interview  
PL 116-136 Section 2104(B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the September 30, 2020 (reference 01) unemployment insurance decision that allowed unemployment insurance benefits to the claimant based upon his discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on December 2, 2020. The claimant, Aaron E. Morney, participated personally. The employer, American Perfection LC LTD, participated through witnesses John Hall and Jeremy Hall. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
Has the claimant been overpaid any unemployment insurance benefits?  
Did the employer participate in the fact finding interview?  
Has the claimant been overpaid Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a general laborer beginning sometime in May of 2019 and ending on June 10, 2020. His job duties consisted on manual labor. Claimant's immediate supervisor was John Hall.

On June 10, 2020, Mr. Hall picked up the claimant for work. Mr. Hall believed that the claimant smelled like alcohol but had him work on the job anyway. During the work shift, the claimant complained that he could not perform the work because his back was hurting. The claimant sat down to rest for over an hour and then completed his work shift. At the end of his shift, the claimant was discharged by John Hall because he believed he was too intoxicated to work. No alcohol test was conducted. The employer does not have a written policy regarding alcohol in the workplace.

Claimant has received \$3,724.02 in gross unemployment insurance benefits since filing his initial claim effective June 14, 2020. Claimant has also received \$3,000.00 in Federal Pandemic Unemployment Compensation benefits since filing his initial claim. The employer participated in the fact-finding interview through witness John Hall.

**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, provided the claimant is otherwise eligible.

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

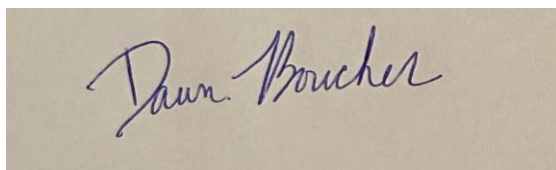
the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The employer has the burden of proof in establishing disqualifying job-related 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).

The claimant had to rest on the job due to his back being injured. No credible evidence that the claimant was intoxicated on the job or resting on the job due to alcohol consumption was presented. This final incident is not an incident of insubordination or any other type of substantial job-related misconduct. The employer has failed to establish any incident of disqualifying job-related misconduct that would disqualify the claimant from receipt of benefits. As such, benefits are allowed, provided the claimant is otherwise eligible. Because benefits are allowed, the issues of overpayment of benefits and overpayment of Federal Pandemic Unemployment Compensation benefits are moot.

**DECISION:**

The September 30, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

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Dawn Boucher  
Administrative Law Judge

December 9, 2020  
Decision Dated and Mailed

db/mh