

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BLAINE DAWSON**  
Claimant

**HAMPTON HYDRAULICS LLC**  
Employer

**APPEAL 20A-UI-14922-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Respondent (1)**

Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit  
Iowa Code § 96.3-7 – Overpayment  
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation  
871 IAC 24.10 – Employer Participation in the Fact-Finding Interview

**STATEMENT OF THE CASE:**

Hampton Hydraulics (employer) appealed a representative's November 9, 2020, decision (reference 01) that concluded Blaine Dawson (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 19, 2021. The claimant was represented by Jon Geyer, Non-Attorney Representative, and participated personally. The employer participated by Diane Harrison, Human Resources and Safety Manager.

The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issues include whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer hired the claimant on March 9, 2015 and at the end of his employment, he was working as a full-time painter two. He signed for receipt of the employer's handbook on March 10, 2015.

On September 30, 2019, the employer issued the claimant a written warning and three-day suspension for an error. The employer gave the claimant two orders for shipment that were similar. When the claimant discovered he painted the wrong color, he reported the error to the employer.

The claimant usually oversaw the painting of primer and topcoat of parts by robots. The employer repeatedly told workers not to stop the line. On July 14, 2020, the topcoat robot was not functioning and the claimant painted the topcoat himself. The cylinders came to him on the line from the primer robot. After about eight cylinders, or eight minutes, the claimant noticed the primer was not being applied properly. He examined the process and notified his supervisor. On July 15, 2020, the employer terminated the claimant for poor quality painting on July 14, 2020, which resulted in delays in shipment.

The claimant filed for unemployment insurance benefits with an effective date of May 3, 2020. His weekly benefit amount was determined to be \$481.00. The department did not schedule a fact-finding interview or hold an informal fact-finding interview. The claimant received benefits from May 3, 2020, to the week ending October 24, 2020. This is a total of \$7,513.00 in state unemployment insurance benefits after the separation from employment. He also received \$6,000.00 in Federal Pandemic Unemployment Compensation for the ten-week period ending July 25, 2020.

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

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 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.

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.

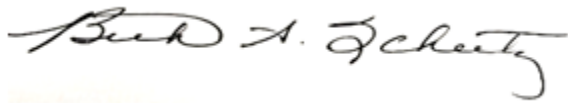
The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. *Crosser v. Iowa Department of Public Safety*, 240 N.W.2d 682 (Iowa 1976). The employer had the power to present testimony but did not. The employer did not provide first-hand testimony at the hearing and, therefore, did not provide sufficient eyewitness evidence of job-related misconduct to rebut the claimant's denial of said conduct.

The testimony from the eyewitness indicated the robot was the cause of the poor quality painting. The claimant stopped the painting as soon as he learned of the issue. The employer did not meet its burden of proof to show any misconduct associated with the claimant's termination from employment. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's November 9, 2020, decision (reference 01) is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed provided the claimant is otherwise eligible.

A handwritten signature in black ink, reading "Beth A. Scheetz". The signature is written in a cursive style with a long horizontal line extending from the end.

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Beth A. Scheetz  
Administrative Law Judge

February 5, 2021  
Decision Dated and Mailed

bas/mh