

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MARIE A DODGE**

Claimant

**APPEAL 17A-UI-04331-NM**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BUNN-O-MATIC CORPORATION**

Employer

**OC: 03/26/17**

**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 13, 2017, (reference 01) unemployment insurance decision that denied benefits based upon her discharge for violation of a known company rule. The parties were properly notified of the hearing. An in-person hearing was held in Creston, Iowa on August 18, 2017. The claimant participated and testified. The employer participated through Human Resource Manager Jenny Robinson and Human Resource Representative Stephanie Blazek. Employer's Exhibits 1 through 3 were received into evidence.

**ISSUE:**

Was the claimant discharged for disqualifying job-related 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 material handler from October 16, 2006, until this employment ended on March 29, 2017, when she was discharged.

On March 29, 2017, there was an incident in which incorrect heaters were installed in five commercial units during the production process. An audit discovered the error occurred because claimant had delivered the wrong parts to the assembly line. Claimant admitted to the error, noting she had misread the parts bin and the individuals on the line should have been double checking to make sure they had the correct parts. This conduct violated company work rule number 13, which requires employees to complete their work in an acceptable manner. (Exhibit 1). Claimant acknowledged she understood this expectation, but was dealing with some personal issues during this time frame.

This was not the first time claimant had been found to have completed work below the quality expected by the employer. (Exhibit 3). On March 16, 2015 and November 6, 2015 claimant was issued disciplinary action for providing incorrect parts to the assembly lines. On March 23, 2015 claimant was issued disciplinary action for failing to properly complete the exceptions process by noting parts shortages on the appropriate paperwork. Claimant was placed on a

performance improvement plan on June 24, 2016 with the requirement that she must improve her attention to detail and accuracy of her work. On March 10, 2017, claimant was again disciplined and suspended for failing to properly complete the exceptions process by noting parts shortages on the appropriate paperwork. Claimant was advised at the time this warning was issued that further errors may lead to termination. When claimant made another mistake, on March 29, 2017, the decision was made to end her employment. (Exhibit 2).

## **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 section 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.

871 IAC 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 Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job 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). The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. Emp't Appeal Bd.*, 531 N.W.2d 645 (Iowa Ct. App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988). 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). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

The employer is entitled to establish reasonable work rules and expect employees to abide by them. The employer has presented substantial and credible evidence that claimant continued to make mistakes with her work after having been warned. While it is understandable that claimant was dealing with some personal issues during this time and that those issues may have been distracting her from her work, this does not excuse her errors. Claimant received numerous warnings and a performance improvement plan advising her she needed to place more attention to detail on her work to ensure she was performing accurately. At least two of claimant's previous warnings were for incidents where the wrong parts were pulled and two others involved issues relating to attention to detail. Claimant was advised on March 10, 2017, just a few weeks prior to her termination, that a failure to improve could result in her employment ending. Despite these warnings, claimant continued to engage in similar behavior. This is disqualifying misconduct.

#### **DECISION:**

The April 13, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs