

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**STEVE M JACKSON**  
Claimant

**JOSEPH L ERTL INC**  
Employer

**APPEAL 17A-UI-04939-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/16/17  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Steve M. Jackson (claimant) filed an appeal from the May 8, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination Joseph L. Ertl, Inc. (employer) discharged him for dishonesty in connection with his work. The parties were properly notified about the hearing. A telephone hearing began on May 26, 2017 and concluded on May 31, 2017. The claimant participated. The employer participated through Die Cast Manager William Sauser and Human Resource Liaison Robert Burris. Employer's Exhibits 1 through 7 were received into the record.

**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: The fact of this case are largely uncontested. The claimant was employed full-time as a Robotics Technician beginning on June 1, 2015, and was separated from employment on April 17, 2017, when he was discharged. The claimant had submitted his resignation at the beginning of the month and put the employer on notice he would be leaving his employment at the end of May to relocate.

On April 13, 2017, the claimant cut zip ties he had in his tool box into little pieces. He then inserted the pieces of zip ties into the key holes of the locks on the doors of the newly constructed office area. He believed the employees who were unable to put their keys in the locks would investigate the reason they could not insert their keys and would be able to remove the zip ties by blowing into the locks. He did not think they would continue to attempt to insert their keys into the locks causing the zip ties to become lodged.

On April 17, 2017, the employer received notice from multiple employees that the locks on the newly constructed offices were not working. Die Cast Manager William Sauser and another management employee went to the offices to figure out why the new construction was faulty. They spent three hours determining first what was causing the problem and then dislodging the

pieces of zip ties that had become jammed in the door locks. The claimant was present while they were working on the issue and asked another employee if they had lost the keys to the doors already. He did not approach Sauser or the other employee to tell them the cause of the malfunction or how to resolve it.

After the issue was resolved, Sauser reviewed the security camera footage to determine who had inserted the zip ties into the door locks. He observed the claimant near the doors and he appeared to be inserting something into the doors. The claimant then walked over to a garbage can and deposited something. Sauser and Human Resource Liaison Robert Burris went to the garbage can and discovered similarly cut zip ties and full zip ties. They met with the claimant that afternoon about the issue. The claimant was asked if he knew anything about the zip ties or if he had anything to tell the employer about the zip ties and the claimant did not respond. It was only after Sauser said they had video footage that the claimant acknowledged he had done it as a joke. The claimant was discharged for destruction of the employer's property.

The week before his discharge, General Manager Bob Willits called the claimant to his office. He had witnessed the claimant squeal tires and drive inappropriately in one of the employer's vehicles. He revoked the claimant's driving privileges for any of the employer's vehicles. He also told the claimant any further disrespect toward the employer's property would be grounds for discharge.

#### **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. Benefits are denied.

Iowa law disqualifies individuals who are discharged from employment for misconduct from receiving unemployment insurance benefits. Iowa Code § 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.* Iowa Administrative Code r. 871-24.32(1)a states:

"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).

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). 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). 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 employer has an interest in maintaining a usable work space and efficiently using its resources. The claimant’s conduct on April 13 and April 17 indicates a willful disregard of the employer’s interest. The claimant deliberately impeded the employer’s ability to utilize the office area and then he watched as company resources were expended to remedy the situation without offering information that would have shortened the time needed to resolve the issue. The claimant did this after he had just been warned that he was not to disrespect the employer’s property. The claimant’s argument that he did not disrespect the employer’s property because he did not actually damage the door locks and it was meant to be a joke is not persuasive. The claimant destroyed and misused zip ties that are used during the manufacturing process. He also caused the employer to pay for three hours of two employees’ time to resolve the issue with the locks in addition to the time Sauser spent determining who sabotaged the locks. The claimant’s conduct was a deliberate disregard of the standard of behavior an employer has to expect from its employees. Benefits are denied.

**DECISION:**

The May 8, 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 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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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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