

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHAD D FOUNTAIN
Claimant

ALANIZ LLC
Employer

APPEAL NO. 14A-UI-09120-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/03/14
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 25, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 23, 2014. Claimant participated personally. Employer participated by Mike Owens and Candice Becker.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 31, 2014. Employer discharged claimant on July 31, 2014 because of employee's inappropriate outburst during a company meeting.

On July 30, 2014 employer held a company meeting with members of management and workers. At this meeting changes in hours and pay, among other issues, were discussed. Claimant was the only employee who was voicing concerns about the changes to management. Claimant told the senior vice president that he'd "done a really f**king shi**y job of running this business, Bill." This was said in front of approximately 50 coworkers. Claimant, later on in the meeting, walked out stating "This is bullsh**. I have a job to do." The next day, the claimant was terminated.

Claimant had received an employee handbook upon hire which spoke of inappropriate actions and possible consequences. It stated that depending on the severity of the action, progressive discipline might be skipped and the actions might lead to immediate termination. Claimant had previously received a final warning in February 2014 for abusive language used on a fellow employee.

REASONING AND CONCLUSIONS OF LAW:

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).

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. The lack of a current warning may detract from a finding of an intentional policy violation.

In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning insubordinate behavior. Claimant was warned concerning this policy.

The last incident, which brought about the discharge, constitutes misconduct because actions such as those of claimant could very easily lead to business dysfunction. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated August 25, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

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