

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAMELA A MILLER**  
Claimant

**J AND J PETERSEN INC**  
Employer

**APPEAL 19A-UI-02078-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/10/19**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

On March 8, 2019, the claimant filed a timely appeal from the March 1, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged from employment for insubordination. The parties were properly notified of the hearing. A telephonic hearing was commenced on March 26, 2019, and was continued to March 29, 2019, due to exhibit issues. The claimant, Pamela A. Miller, participated and was represented by non-attorney representative Christopher Meyers. The employer, J and J Petersen, Inc., participated through Aaron Bradley, General Manager. Employer's Exhibits 1 and 2 and 6 was received and admitted into the record over objection. Employer's Exhibits 3 through 5 were excluded from the record as they were authored after the discharge from employment and were not relevant.

**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, most recently as a cashier/deli, from November 2013 until February 13, 2019, when she was discharged for refusing to sign a written warning. On February 13, Bradley presented claimant with a written warning for defamation of character and improper use of vacation time. The employer submitted a copy of the written warning that claimant refused to sign. (Employer's Exhibit 1) This warning states, "Signing this form does not necessarily indicate that you agree with this warning." Bradley hand-wrote onto the warning, "Failure to sign the warning results in termination. Claimant did not agree with either allegation. She denies defaming the employer and claims she only ever told the truth about what was happening with the employer transitioning to new ownership. She also denies misusing her vacation time. Claimant was willing to sign the warning as it pertained to vacation time. However, she refused to sign the warning specifically because it accused her of defamation of character. Bradley told claimant that she would be discharged if she did not sign the warning, and claimant still refused to sign it. The two had a heated discussion resulting in claimant being fired for refusing to sign the warning and Bradley threatening to call law enforcement if she did not leave the premises.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for insubordination. Benefits are withheld.

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). 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). Failure to sign a written reprimand acknowledging receipt constitutes job misconduct as a matter of law. *Green v Iowa Dep't of Job Serv.*, 299 N.W.2d 651 (Iowa 1980).

In insubordination cases, the reasonableness of the employer's demand in light of the circumstances must be evaluated, along with the worker's reason for non-compliance. See *Endicott v. Iowa Department of Job Service*, 367 N.W.2d 300 (Iowa Ct. App. 1985). The key to such cases is not the worker's subjective point of view but "what a reasonable person would have believed under the circumstances." *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330, 337 (Iowa 1988); accord *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993)(objective good faith is test in quits for good cause). For example, in *Green v. IDJS*, 299 N.W.2d 651 (Iowa 1980) an employee refused to sign a warning to acknowledge that she understood why she was

being warned. The Court found the refusal to be disqualifying as a matter of law, and did not focus on whether the warning was justified or not. *Green* at 655. The claimant's actions in refusing to do as told "show[ed] an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer." 871 IAC 24.32(1)(a).

In this case, claimant was discharged for refusing to sign a written warning issued to her by the employer. Claimant disagreed with the warning, and she simply would not sign it because she disagreed with it. While claimant may have been upset by the accusations in the written warning, the administrative law judge finds claimant was not reasonable in her decision to not comply with the employer's directive to sign the warning. The warning clearly states that signing it is not the same as agreeing with it, and claimant's own willingness to sign it despite disagreeing with the vacation-related write-up indicates she knew that. The employer issued claimant a reasonable directive, and claimant had no good reason not to comply with it. The administrative law judge finds claimant was discharged from employment for disqualifying, job-related misconduct. Benefits are withheld.

**DECISION:**

The March 1, 2019, (reference 01) unemployment insurance decision is affirmed. 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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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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