

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRIDGETT A DREAD**  
Claimant

**SEABOARD TRIUMPH FOODS LLC**  
Employer

**APPEAL 21A-UI-10666-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/28/21**  
**Claimant: Appellant (2R)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the April 1, 2021 (reference 01) unemployment insurance decision that denied unemployment insurance benefits to the claimant based upon her voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on July 1, 2021. The claimant participated personally. Attorney Joanie L. Grife represented the claimant. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**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 general laborer in the packaging department. She worked on a fast paced production line. Claimant had a worker's compensation injury to her arm. She had asked her supervisor to move to a slower production line instead of the line she was assigned to work on. Her supervisor denied her request.

On March 5, 2021, the claimant was speaking to Deborah, who was with human resources, about her request to move to a slower production line. The claimant had been allowed to work on a slower production line in the past during her worker's compensation injury. Deborah told claimant that it was best if she left and to go home when the claimant stated she was going to go back to the production line. Deborah asked the claimant for her badge. Deborah instructed another employee to assist the claimant in cleaning out all personal items from her locker and escorting the claimant off of the premises. Claimant did not intend to quit her position and did not state that she was quitting on March 5, 2021.

The claimant testified that she had a worker's compensation injury at the time of the separation from employment. The issues of whether the claimant is able to and available for work and whether the claimant has received any deductible worker's compensation benefits will be remanded to the Benefits Bureau for an initial investigation and determination.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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).

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-related 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). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). 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 Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). 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).

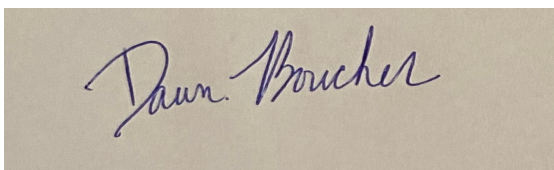
Claimant's actions in speaking to Deborah about her moving to a slower production line on March 5, 2021 was not an incident of insubordination or any other type of substantial job-related misconduct. The employer has failed to establish any intentional and substantial disregard of the employer's interest which rises to the level of willful misconduct. As such, the separation from employment is not disqualifying and benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The April 1, 2021 (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. The separation from employment is not disqualifying. Benefits are allowed, provided the claimant remains otherwise eligible.

**REMAND:**

The issue of whether the claimant is able to and available for work effective February 28, 2021 and whether the claimant has received any deductible worker's compensation benefits during the weekly-continued claims she has filed for benefits shall be remanded to the Benefits Bureau for an initial investigation and determination.



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Dawn Boucher  
Administrative Law Judge

July 12, 2021  
Decision Dated and Mailed

db/kmj