

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**THOMAS L INGRAM**  
Claimant

**MERCER HEALTH & BENEFITS ADMINIST**  
Employer

**APPEAL 20A-UI-11797-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/05/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

On September 22, 2020, the claimant filed an appeal from the September 21, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 18, 2020. Claimant participated. Employer participated through human resources business partner Mary Olson. Employer's Exhibit 1 was received.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 1, 2017. Claimant last worked as a full-time customer service representative. Claimant was separated from employment on July 8, 2020, when he was discharged.

On March 27, 2020, claimant went on medical leave for a non-work related medical condition. Claimant saw a doctor regarding the issue, but the doctor refused to fill out paperwork authorizing claimant to receive short term disability benefits. As a result, employer contacted claimant and let him know that if he did not get the paperwork completed, he would be considered to have voluntarily resigned.

After much back and forth between the insurance carrier, claimant, and the employer, the paperwork was finally properly completed.

During his last year of employment, claimant had complaints regarding the work environment that he brought forth to the human resource department.

Claimant's doctor released him to return to work effective June 30, 2020. Claimant expressed his concern with returning to an environment that was toxic. Employer did not have another place to assign claimant, so as an alternative, employer gave claimant the opportunity to take a temporary furlough and receive unemployment benefits.

With all of these issues occurring, claimant became frustrated and sent employer an email on July 6, 2020, in which he asked questions about his claim for short term disability benefits and a possible claim for unemployment insurance benefits. In the email, claimant asked a rhetorical question as to why he would want to keep working for employer. Employer interpreted the email as claimant's resignation.

On July 8, 2020, human resource business partner Mary Olson spoke with claimant and informed him that employer interpreted his July 6, 2020, email as a resignation. Claimant clarified he had no intent to resign. Olson stated that nevertheless employer considered him separated from employment.

### **REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether claimant resigned or was discharged by employer. The employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

In this case, claimant never stated that he resigned and he did not intend to resign. Therefore, this case will be analyzed as a discharge.

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The employer has the burden to prove the claimant was discharged for job-related misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer made the correct decision in ending claimant's employment, 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 justifying termination of an employee and misconduct warranting denial of unemployment insurance benefits are two different things. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

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). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence is not 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).

In this case, employer admitted during its testimony that claimant's separation from employment was not based on any misconduct. No evidence of misconduct was presented during the hearing. Therefore, claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The September 21, 2020, (reference 01) unemployment insurance decision is reversed. Claimant was separated from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.



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Christine A. Louis  
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November 30, 2020  
Decision Dated and Mailed

cal/mh