

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**RYAN M STOCK**

Claimant

**APPEAL NO. 12A-UI-08044-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MID-AMERICA PUBLISHING CORP**

Employer

**OC: 05/27/12**

**Claimant: Respondent (2-R)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Mid-American Publishing, filed an appeal from a decision dated June 26, 2012, reference 01. The decision allowed benefits to the claimant, Ryan Stock. After due notice was issued, a hearing was held by telephone conference call on July 30, 2012. The claimant participated on his own behalf. The employer participated by Circulation Assistant Lynn Byrne, CEO Ryan Harvey and CFO Pamela DeVries.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Ryan Stock was employed by Mid-America Publishing from September 10, 1992 until May 24, 2012 as a full-time pressman working 8:00 a.m. until 5:00 p.m. On May 23, 2012, another employee was dismissed from the company which upset the claimant. After he left work he came back to the office around 5:30 p.m. after drinking three beers at the bar across the street, and was pounding on the office door of CFO Pamela DeVries.

Circulation Assistant Lynne Byrne heard him and said Ms. DeVries was gone. At that point he became abusive, saying he wanted to know if there was “a fucking good reason Brad was fucking let go,” and he was going to get “a fucking answer,” and he had texted city council members about the situation. He continued to ramble during which time Ms. Byrnes could smell the alcohol on him. When he said he was going to Ms. DeVries’ house to “get some answers” he left and Ms. Byrnes immediately called CEO Ryan Harvey and Ms. DeVries to tell them what was happening. She had felt threatened and frightened herself and thought he might be a threat to Ms. DeVries.

Mr. Stock arrived at Ms. DeVries’ house and stood on her door step for over ten minutes demanding to know why Brad had been let go. She told him repeatedly it was a personnel matter and she could not discuss it, he should speak with Brad himself if he wanted to know. He finally left but sent her four text messages after that between 6:27 p.m. and 6:48 p.m.,

rambling about how she was “hard core” and he hoped “Matt rots in hell.” He asserted “everyone will know in the morning” and “now the whole town knows.”

The next day he was discharged for inappropriate behavior and for being under the influence of alcohol on company premises. He has received unemployment benefits since filing a claim with an effective date of May 27, 2012.

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

Iowa Code section 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.

871 IAC 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.

Mr. Stock was discharged for being under the influence of alcohol on company premises and harassment and threatening behavior toward other employees, Ms. Byrne and Ms. DeVries. He felt he had the right to know confidential personnel information because Brad was his friend and they had worked together for many years.

Mr. Stock asserted that the employer routinely sent e-mails to everyone in the company with an e-mail address giving details of any employee who had been discharged and why, and he therefore felt entitled to know all the details about Brad. This is incorrect. Although the employer would make a general statement that one employee or another had quit or been dismissed, no details were given as those were confidential. The only time any further

information was given was when the company was having financial problems and announced that due to budget cuts, the certain employees had been laid off.

The employer has the obligation to provide a safe and harassment-free work environment for all employees and the claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of June 26, 2012, reference 01, is reversed. Ryan Stock is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css