

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK W WRIGHT**

Claimant

**APPEAL NO. 13A-UI-12158-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BROADLAWNS MEDICAL CENTER**

Employer

**OC: 09/29/13**

**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Mark Wright, filed an appeal from a decision dated October 21, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 20, 2013. The claimant participated on his own behalf. The employer, Broadlawns Medical Center (Broadlawns), did not provide a telephone number where a witness could be contacted and did not participate.

**ISSUE:**

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

**FINDINGS OF FACT:**

Mark Wright was employed by Broadlawns from September 5, 2006 until September 9, 2013 as a full-time public safety officer. During the course of his employment the claimant received the policies and procedures of the employer. The internet policy prohibits the use of the company computers and internet for non-business related purposes.

Mr. Wright maintained the internet policy was largely ignored in the public safety department for many years with officers accessing web sites during work hours that were not work related. But in 2012 when a new director, Mark Laugherty, assumed his duties, he notified the members of the department he would strictly enforce the policies.

The claimant acknowledged he continued to access web sites of personal interest such as astronomy and the news, as well as web sites with sexual content. An audit was done and these were discovered by the information technology department. Mr. Laugherty met with him on September 9, 2013, and told him he was going to be discharged but was given the option to resign. He elected to resign.

## 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.

The claimant was discharged for violation of a known company rule. For reasons which are not entirely clear he felt that he could still break the rule prohibiting personal use of the employer's computers and internet while on duty. The new director had been very clear that he intended to strictly enforce the rules and policies and Mr. Wright still chose to go surfing for non-business related websites and web sites with sexual content. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of October 21, 2013, reference 01, is affirmed. Mark Wright is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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