

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYRONE RUSSELL
Claimant

APPEAL 21A-UI-25286-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HORMEL FOODS CORPORATION
Employer

**OC: 09/26/21
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Admin. Code r. 871-24.32(1)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On November 12, 2021, the Tyrone Russell filed an appeal from the November 2, 2021, (reference 03) unemployment insurance decision that denied benefits based on an Iowa Workforce Representative's determination that the claimant was discharged for disqualifying misconduct specifically excessive unexcused absences. The parties were properly notified about the hearing. A telephone hearing was held on January 12, 2022. Claimant Tyrone Russell participated and testified. Employer did not telephone the toll-free number listed on the notice of hearing and did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant discharged from employment for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 1, 2021. Claimant last worked as a full-time Supervisor of the Tray Pack Line of Complete Meals. Claimant was separated from employment on September 10, 2021, when after he arrived for his shift, he was escorted from the premises and discharged. The claimant was informed that he was being discharged for returning to work approximately 50 min late from his lunch break the previous day. This was the only unexcused tardy the claimant had incurred during his tenure with the employer.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

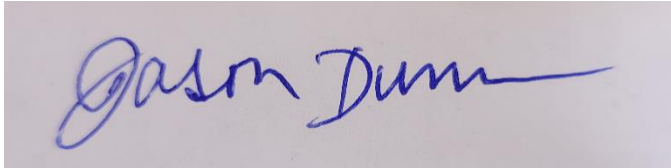
The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). 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).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

The employer did not meet its burden in proving job disqualifying misconduct. The claimant's late return from his lunch break on September 9, 2021, does not rise to the level of disqualifying misconduct. Benefits are allowed.

DECISION:

The November 2, 2021, (reference 03) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Jason Dunn
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February 2, 2022
Decision Dated and Mailed

jd/mh