

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**GRAYLING E ROBINSON**  
Claimant

**APPEAL NO. 18A-UI-11251-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALMART INC**  
Employer

**OC: 10/28/18**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Grayling Robinson filed a timely appeal from the November 14, 2018, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Robinson was discharged on October 26, 2018 for violation of a known company rule. After due notice was issued, a hearing was held on December 4, 2018. Mr. Robinson participated. Paul Curl represented the employer. Exhibits 1, 2 and A were received into evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with the employment that disqualifies the claimant for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Grayling Robinson was employed by Walmart as a full-time stockperson at the Walmart store in Clinton from 2016 until October 26, 2018, when the employer discharged him for burning a \$20.00 bill in the employee breakroom that same day as part of a coworker's dare. Multiple employees were in the breakroom at the time. Two of Mr. Robinson's coworkers reported the unsafe conduct to store management. Mr. Robinson was aware at the time of the incident that he was not authorized to use fire anywhere in the store.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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 disqualification shall continue 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).

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

The evidence in the record establishes a discharge for misconduct in connection with the employment. Regardless of whether the employer had a specific work rule that addressed the specific conduct in question, Mr. Robinson's conduct was inherently dangerous and could have led to a catastrophic outcome. Mr. Robinson knew that he was not authorized to use fire in the workplace and knew that use of fire presented a safety risk. Mr. Robinson's conduct readily demonstrated a willful and wanton disregard for the safety of all persons present in the building and for the employer's property. Mr. Robinson's conduct senselessly exposed the employer to potential liability. Mr. Robinson is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Robinson must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The November 14, 2018, reference 01, decision is affirmed. The claimant was discharged on October 26, 2018 for misconduct in connection with the employment. The claimant is disqualified for unemployment benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs