

On September 13, 2005, the claimant approached Personnel Director Kent Denning and demanded to know why he had not gotten his most recent raise. The claimant became very agitated, stating it was "all fucking bullshit" and that he was entitled to a "fucking raise." In addition, he raised his voice and starting waving his arms around in a threatening manner. Mr. Denning attempted to defuse the situation and asked him to calm down, but he did not. Finally the employer told him to go home. He asked if he was being fired and was told he was only being sent home. The next day when Mr. Allen reported for work he was discharged by Mr. Denning for insubordination.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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 claimant was discharged for using profane and threatening language to a supervisor and for refusing to follow instructions to calm down in order to discuss the matter more rationally. The claimant has denied any inappropriate conduct but has offered no explanation as to why

the employer would fabricate the story. The claimant's denial lacks credibility, and the administrative law judge accepts the claimant was discharged for insubordination, profane language, and threatening a supervisor. 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.

DECISION:

The representative's decision of October 10, 2005, reference 05, is affirmed. Edward Allen is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw