

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KENNETH W DAVIDSON
Claimant

APPEAL 15A-UI-00016-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**EASTERN IOWA STRUCTURE SERVICE
INC**
Employer

**OC: 11-30-14
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct
Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 22, 2014, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2015. Claimant participated. Employer participated through Monika Davidson, Owner.

ISSUES:

Did the claimant voluntarily quit his employment without good cause attributable to the employer or was he discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a helper beginning on January 17, 2013 through November 5, 2014 when he was discharged. Mrs. Davidson owns and runs the business and has since her former husband passed away in 2008. The claimant and the owner are currently in the process of getting a divorce. The last two times that Mr. Davidson worked in the business he was intimidating to Ms. Davidson by standing very close to her and telling her he did not want to work in the field with her son, but wanted to work in the shop with her. Additionally, on the last job site he was telling Ms. Davidson, the owner of the business, what she could and could not do on the jobsite. As an employee he was not allowed to tell the owner of the business how to operate the business. Because of the claimant's actions, Ms. Davidson chose not to keep him as an employee any longer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). Despite the fact that the claimant and the owner are married, the claimant still owes his employer a duty of respect and is obligated to follow instructions. The claimant was trying to intimidate Ms. Davidson by his conduct in standing too close to her and by telling her what she could and could not do on the job site. Under these circumstances, that conduct is job-connected misconduct sufficient to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The December 22, 2014 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs