

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IBRAHIM HASSAN
Claimant

COGNIZANT TECHNOLOGY SOLUTIONS
Employer

APPEAL 19A-UI-08800-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/29/19
Claimant: Appellant (5)**

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the October 29, 2019 (reference 01) unemployment insurance decision that found the claimant was not eligible for unemployment insurance benefits due to him voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on December 3, 2019. The claimant, Ibrahim Hassan, participated personally. The employer, Cognizant Technology Solutions, participated through witness Lori Bryant. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as an executive processor from November 27, 2017 until his employment ended on July 12, 2019. Claimant's direct supervisor was Kimberly Banks.

Claimant's mother lived in Afghanistan and became ill. Claimant applied for a leave of absence to travel to Afghanistan to care for her while she went through treatment. Claimant applied for leave under the Family and Medical Leave Act ("FMLA") and was told by his supervisor that he would need to submit a certification from his mother's physician regarding her illness and need for care. He left work on May 27, 2019. While he was caring for his mother, her physician refused to complete the medical certification form for the claimant without him providing proper identification to the physician. Claimant applied for proper identification in Afghanistan but it was a lengthy process.

Claimant received his identification at the beginning of July, 2019. He did not follow up with his mother's physician to obtain the medical certification once he received his proper identification. The employer emailed the claimant on several occasions instructing him to provide the completed medical certification so that his leave of absence would not be denied. Claimant responded on one occasion to the employer and notified it that he was in the process of

obtaining proper identification in order to have the physician complete the certification. He did not notify the employer after he received his proper identification. Claimant was told that without the certification, his leave would be denied. His leave was denied and he was instructed by the employer to return to work. Claimant returned from Afghanistan on July 12, 2019 and received a termination email that same day. Claimant was terminated for failing to complete the medical certification and failing to return to work when instructed to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for job-related misconduct. Benefits are denied.

As a preliminary matter, I find that the Claimant did not quit. Claimant was discharged from employment.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. Iowa Code § 96.6(2); *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). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). The focus of the administrative code definition of misconduct is on deliberate, intentional or culpable acts by the employee. *Id.* When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

Insubordination can manifest in several different ways. An employer has the right to expect an employee to follow reasonable directions. *Myers v. Iowa Dep't of Job Serv.*, 373 N.W.2d 507 (Iowa Ct. App. 1985). Willful misconduct can be established where an employee manifests an intent to disobey a future reasonable instruction of his employer. *Id.* Misconduct can be found when a claimant was discharged for refusing to complete job tasks after his shift because he created the extra job tasks by working too slow. *Boyd v. Iowa Dept. of Job Serv.*, 377 N.W.2d 1 (Iowa Ct. App. 1985).

Continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). For example, the refusal of a prison guard to answer questions on his private drug use constitutes job misconduct since the prison's rule requiring him to disclose this information was necessary to the functioning of the prison system. *Ross v. Iowa State Penitentiary*, 376 N.W.2d 642 (Iowa App. 1985). However, if the request was unreasonable or the claimant had a good faith belief or good cause to refuse the request, no misconduct would be found. *Woods v. Iowa Department of Job Service*, 327 N.W.2d 768, 771 (Iowa Ct.App.1982)(an employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause). An instruction is reasonable if it presents no hardship to the employee and no threat to his or her health, safety, or morals. *Endicott v. Iowa Dep't of Job Services*, 367 N.W.2d 300, 304 (Iowa App. 1985) (finding misconduct based on employee's unreasonable refusal to work overtime after employer's short-notice request).

In this case, the instruction to complete the medical certification and return it to the employer was reasonable. Claimant was fully aware that he was required to submit the certification to the employer. The claimant presented good cause in his inability to complete the request when the physician refused to complete the certification without his proper identification.

However, once the claimant received his proper identification and refused to contact the physician to have the certification completed, he engaged in a deliberate disregard of the employer's reasonable instructions. This constituted a material breach of his duties and obligations that arose out of his contract of employment. Accordingly, the employer has proven claimant committed a current act of job-related misconduct. As such, benefits are denied.

DECISION:

The October 29, 2019 (reference 01) unemployment insurance decision is modified with no change in effect. Claimant was discharged from employment for job-related misconduct. Unemployment insurance benefits are denied until claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount after his separation date, and provided he is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn