

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ZACHARY K RYAN**  
Claimant

**GOOD SAMARITAN SOCIETY INC**  
Employer

**APPEAL NO: 12A-UI-04683-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/25/12  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 16, 2012, reference 01, that held he was discharged for misconduct on March 26, 2012, and benefits are denied. A telephone hearing was held on May 16, 2012. The claimant participated. James Kruckenberg, Maintenance/Environmental Services Director, and K. D. Kalbur, HR Director, and Kory Darnal, Volunteer worker, participated for the employer. Employer Exhibits 1a – 5 were received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment on October 11, 2007, and last worked for the employer as a full-time maintenance tech on March 26, 2012. The claimant received an employee handbook that contained the policies of the employer. The policy provides that insubordination is a group III offense that can result in termination.

On March 14 claimant's supervisor discussed the need to follow rules regarding HVAC and claimant became argumentative. He called his supervisor a fucking liar saying the employer rules are lame and that he wasn't going to follow them. He also said just fucking fire me. On March 16 the supervisor found claimant's tool cart in the boiler room parked in front of an electrical panel that blocked access to it. The employer had instructed claimant to park his tool cart in a designated storage area that was not where it was found in the boiler room.

The employer discharged claimant on March 26 for gross misconduct (Rule #8) that is a group III termination offense for insubordination and violation of a work safety rule. The termination delay from the date of the offenses (March 14, 16) was due to on-site management unavailability.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on March 26, 2012, for violation of company policy.

The claimant knew the employer policy due to receiving it. He told his supervisor he would not follow the employer rules and requested to be fired that constitutes job disqualifying misconduct as a matter of law.

**DECISION:**

The department decision dated April 16, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on March 26, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/pjs