

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTIWAN E CURRY**  
Claimant

**APPEAL NO. 09A-UI-09764-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEAVER ENTERPRISES LTD**  
Employer

**Original Claim: 05/10/09  
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 June 23, 2009, reference 03, that held he was discharged for misconduct on April 7, 2009, and that denied benefits. A telephone hearing was held on July 23, 2009. The claimant participated. Terry Moffit, Operations Director, participated for the employer.

**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 as a part-time cook on October 19, 2008, and last worked for the employer on April 7, 2009. The assistant manager handed the claimant a written warning for failing to report to work or to find a replacement on April 7. The claimant responded by pouring flour on it, crumpling the paper, and throwing it in a waste depository. The claimant's angry behavior caused the assistant manager to call in another management person from a different location.

The employer management person questioned the assistant manager and the claimant about what occurred. The claimant had a history of angry responses to previous warnings. The employer concluded the claimant's action constituted insubordination in violation of policy, which is grounds for immediate termination, and he was discharged.

**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 April 7, 2009, for insubordination.

The employer properly reasoned that the claimant refused to sign the warning and discarded it as the assistant manager related the incident to management based on the claimant losing his temper when issued past warnings. The failure to acknowledge a written reprimand by signing it constitutes job misconduct as a matter of law. Green v. IDJS, 299 NW2d 651 (Iowa 1980).

#### **DECISION:**

The department decision dated June 23, 2009, reference 03, is affirmed. The claimant was discharged for misconduct on April 7, 2009. Benefits are denied until the claimant re-qualifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw