

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THEODORE A BATEMON**

Claimant

**APPEAL NO. 16A-UI-05705-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CANON BUSINESS PROCESS SERVICES**

Employer

**OC: 04/24/16**

**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Canon Business Process Services (employer) appealed a representative's May 12, 2016, decision (reference 01) that concluded Theodore Batemon (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 8, 2016. The claimant participated personally. The employer was represented by Anthony Paradiso, Hearings Representative, and participated by Edward Sample, Director of Employee Relations. Exhibit D-1 was received into evidence. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 10, 2012, as a full-time site manager 4. The claimant signed for receipt of the employer's handbook on August 29, 2012. The claimant worked from home and regularly sent work documents to his personal account. It was common practice to send documents to his supervisor's personal account. The employer did not indicate the claimant's work practices were incorrect.

In December 2015, co-workers showed the claimant a document on a shared drive with confidential information about a customer and bids for business. The employer's bid was included. Later, a co-worker sent the claimant an updated version of the document. On February 1, 2016, the claimant sent the document to his personal account. On February 8, 2016, the claimant e-mailed the document to his supervisor. On April 4, 2016, the employer discovered the claimant's actions and placed him on suspension pending investigation. On April 18, 2016, the employer terminated the claimant for lack of judgment and unprofessional conduct. Three employees were terminated. Four employees received warnings. The employer indicated the Midwest region needs a business ethics training program.

The claimant filed for unemployment insurance benefits with an effective date of April 24, 2016. The employer did not participate at the fact-finding interview on May 10, 2016.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not discharged for 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).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An employer may discharge an employee for any number of reasons or no reason at all, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for unemployment insurance benefits related to that separation. Certainly, the employer is reasonable to have concerns about the claimant's training and supervision over the years of his employment. Inasmuch as the employer had not previously warned the claimant about any of the issues leading to the separation, it has not met the burden of proof to establish the claimant acted deliberately or negligently in violation of company policy, procedure, or prior

warning. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. The employer did not provide sufficient evidence of job-related misconduct. It did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's May 12, 2016, decision (reference 01) is affirmed. The employer has not met its burden of proof to establish job related misconduct. Benefits are allowed, provided claimant is otherwise eligible.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/pjs