

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER WASHINGTON**  
Claimant

**APPEAL NO. 07A-UI-10501-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEATON CORPORATION**  
**STAFF MANAGEMENT**  
Employer

**OC: 01-07-07 R: 03**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 9, 2007, reference 06, decision that denied benefits. After due notice was issued, a hearing was held on November 30, 2007. The claimant did participate. The employer did participate through Rachel Leist, Senior Account Manager and Anet Corona, First Shift Supervisor and Matthew Hull, On Site Safety Manager.

**ISSUE:**

Did the claimant voluntarily quit his employment with good cause attributable to the employer or was he discharged due to job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was assigned to work at Proctor and Gamble fulltime beginning on August 13, 2007 through September 28, 2007 when he walked off the job and was discharged.

The claimant suffers from post traumatic shock disorder (PTSD) as a result of a shooting incident he witnessed when he was nine years old. Periodically when not taking the proper psychiatric medication the claimant will undergo PTSD attacks that leave him physically, mentally and emotionally unable to function or sometime even communicate the nature of his distress. The claimant sustained just such an attack on September 28 while at work. His immediate reaction after suffering an attack is to flee from wherever he is to his home to calm himself down. On September 28 the claimant approached supervisor Anet Corona and told her he needed to leave. Due the nature of his PTSD attack the claimant was not able to articulate to Ms. Corona why he needed to leave. The claimant's medical condition made it impossible for him to continue working and made it impossible for him to clearly articulate to the employer why he needed to leave.

The claimant contacted Matthew Hull a few days after the attack incident. The claimant explained to Mr. Hull what had happened and due to the circumstances Mr. Hull agreed to reinstate the claimant's employment. The claimant and Mr. Hull then had a misunderstanding

about when the claimant was to return to work. The claimant was waiting for Mr. Hull to call him and provide him his return to work date, while Mr. Hull was waiting for the claimant to return to the job site.

At the hearing the claimant and the employer agreed to reinstate the claimant's employment and the claimant agreed to a new start date of employment.

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

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

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.

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 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). 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. IDJS*, 364 N.W.2d 262 (Iowa 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. IDJS*, 425 N.W.2d 679 (Iowa 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." When based on carelessness, the carelessness must actually indicate a

“wrongful intent” to be disqualifying in nature. *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Employment Appeal Board*, 423 N.W.2d 211 (Iowa App. 1988).

An employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, employer incurs potential liability for unemployment insurance benefits related to that separation. While the employer certainly has a right to know why employees leave work, the claimant due to the nature of his illness was physically unable to communicate that information to the employer at the time he left work.

The claimant had no intention of quitting his job when he left he was merely seeking relief from his PTSD attack. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). As such, the administrative law judge is not able to conclude the claimant voluntarily quit. The claimant was discharged for leaving the work place without permission. However, his leaving under medical circumstances cannot be found to be volitional substantial misconduct. As such, benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The November 9, 2007, reference 06, decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs