

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHAD DERRY**  
Claimant

**MIDWEST COMPUTER BROKERS**  
Employer

**APPEAL 22IWDUI0008**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 4/18/21  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Chad Derry appealed from a June 28, 2021 (reference 01) decision denying unemployment insurance benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 20, 2021. Mr. Derry appeared self-represented and testified. Randy Long appeared on behalf of the employer Midwest Computer Brokers ("Midwest").

**ISSUE:**

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Midwest is in the business of reselling, recycling, and refurbishing electronic equipment. Chad Derry originally started with as a fulltime warehouse employee with Midwest's predecessor, working in April 2016 through February 2019. Derry was sentenced to a term of incarceration from February 2019 through approximately July 2019. He was re-employed as a warehouse worker beginning July 15, 2019 following his release from prison, with Midwest as the new owner of the company. Overall, Derry's supervisors with Midwest were pleased with the quality of his work. However, Derry's politically-charged commentary had become disruptive in the workplace on occasion, and his supervisors had instructed him to refrain from engaging in that topic of conversation.

On February 25, 2021, managers David Schneider and Jace Bearden were present in the warehouse when Derry appeared for his work shift. Derry was angry. According to Schneider, Derry appeared to be agitated about a political issue. Derry, on the other hand, asserted he was upset over a sexually explicit comment made by Bearden the prior afternoon. Derry engaged in an argument and raised his voice with Schneider and Bearden. Schneider instructed Derry to go home for the rest of the day.

The following day, Randy Long, president of Midwest, discussed the incident with Derry. Long informed Derry he had received reports of Derry not following the instructions of his supervisors Schneider and Bearden, and that he had engaged in an argument with them. At that time, Long told Derry his behavior was unacceptable, and, should it continue, he would face further disciplinary action with the possibility of termination. Derry, in turn, complained that Bearden had made inappropriate comments in the workplace, but did not provide much detail about them.

Thereafter, on March 2, 2021, Derry was working in the warehouse while listening to a radio, while another radio was also playing in the area. Schneider and Bearden told Derry only one radio could be playing at a time. They instructed Derry to either turn his radio off, or alternatively, change it to the station playing on the other radio. According to Schneider, Derry refused to turn the radio off or change the station, and became argumentative with them. Derry denied this assertion. Bearden then immediately completed a written disciplinary action form, noting Derry was provided a written warning and provided the following employer's statement:

[Derry] was instructed that the warehouse was to only have one radio station going at one time and if we needed to setup two radios for them to be on the same channel. He refused got confrontational and threatened to call walford<sup>1</sup> and was instigating conflict by disparaging his leadership behind his back.

Derry did not complete the employee's statement on the disciplinary action form and refused to sign it. According to Schneider, Derry continued to argue and yell after he was presented with the disciplinary action form. Therefore, Schneider and Bearden terminated him and asked him to leave. Derry subsequently applied for unemployment insurance benefits.

At the time of hearing for this matter, Derry asserted he had been the subject of repeated and sustained sexually explicit and harassing comments from his supervisors Schneider and/or Bearden. He acknowledged he had never raised this issue with Long prior to their February 26, 2021 telephone conversation, nor had he provided Long with any details regarding his allegation. Conversely, Long reported that he had investigated Derry's complaint. He received information regarding one incident that occurred prior to Derry's incarceration when the warehouse was under different ownership. However, none of Midwest's managers or warehouse staff could confirm any incidents of such conduct during Derry's most recent term of employment.

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

For the reasons that follow, the administrative law judge concludes Midwest met its burden to establish disqualifying job 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:

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<sup>1</sup> "Walford" is Midwest's main office location.

- 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 Workforce Development rules defines "misconduct" in this context 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.

Iowa Admin. Code r. 871-24.32(1)a. 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). "Unemployment statutes should be interpreted liberally to achieve the legislative goal of minimizing the burden of involuntary unemployment." *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 10 (Iowa 1982). The employer has the burden of proof in establishing disqualifying job misconduct. *Id.* at 11.

As recently clarified by the Iowa Supreme Court: "The standard an employer must meet to sustain disqualification for unemployment benefits is more demanding than the standard ordinarily required to support a termination of employment for just cause." Rather, "[t]he apples of disqualification for unemployment benefits should not be conflated with the oranges of just-cause terminations." *Irving v. Employment Appeal Bd.*, 883 N.W.2d 179, 195-96 (2016); *see also Gaborit v. Employment Appeal Bd.*, 743 N.W.2d 554, 558 (Iowa Ct. App. 2007) (violation of known work rule does not establish per se disqualification from receiving unemployment compensation).

There is sufficient evidence in the record to conclude Derry acted with wanton disregard to his employer's interest by deliberately violating the standard of behavior which Midwest had the right to expect of employees. Specifically, Derry engaged in misconduct when he behaved aggressively and insubordinately toward his supervisors on March 2, 2021. Derry acknowledged he engaged in an argument with his supervisors on that date, but argued his behavior was at least in part due to inappropriate comments made by them. Derry admitted he had never raised the allegation prior to facing his own discipline, and Long testified that after conducting his own investigation regarding the allegation, there was no evidence to substantiate Derry's claim. Therefore, the undersigned administrative law judge does not find Derry's allegation credible.

#### **DECISION:**

The June 28, 2021 (reference 01) unemployment insurance decision is AFFIRMED. Claimant was discharged for misconduct. Benefits are denied.



Kristine M. Dreckman  
Administrative Law Judge  
Department of Inspections and Appeals  
Administrative Hearings Division

September 1, 2021

Decision Dated and Mailed

KMD:aa

CC: Chad Derry (by first class mail)  
Midwest Computer Brokers (by first class mail)  
Joni Benson (AEDMS)

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**Case Title:** DERRY V. MIDWEST COMPUTER BROKERS  
**Case Number:** 22IWDUI0008  
**Type:** Proposed Decision

IT IS SO ORDERED.



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Kristine Dreckman, Administrative Law Judge