

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROLINE GANZBERGER

Claimant

APPEAL NO. 24A-UI-07504-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUSCATINE COMMUNITY SCHOOL DIST

Employer

OC: 08/04/24

Claimant: Appellant (2)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 21, 2024, (reference 01) which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 11, 2024. Claimant participated. Employer participated by Anna Reyman and Stephanie Zillig. Employer's Exhibits 1-8 were admitted into evidence.

ISSUES:

Whether claimant was discharged for misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 30, 2024.

Employer discharged claimant on May 30, 2024 through giving claimant an ultimatum on or around April 5, 2024 that she was not going to be retained as a schoolteacher for the next school year. Claimant was given the choice of either quitting or being terminated and claimant chose to quit. Either way, employer stated that claimant would not have been retained for the next school year.

Claimant was hired on October 23, 2023 to step into a 6th grade class in the middle of a school year and teach the class. Prior to claimant's entry, the class had very few referrals to the principal's office for children acting up in class. Once claimant moved to the class, referrals to the office increased dramatically. Additionally, multiple parents expressed concerns over the teaching methods of the claimant.

Claimant's classroom was monitored by employer to determine whether claimant was abiding by departmental and state code guidelines. During the January observation, employer only listed a

concerned comment in one of the eight standards listed for teachers. Employer then stated concerns with development of a lesson plan and classroom time management.

The February 9, 2024 Feedback shows the principal commented, "Tier focus plan area," in standard 3 which focuses on a teacher demonstrating competence in planning and preparing for instruction and in standard 6 which focuses on competence in classroom management. The documentation provided indicated that the principal saw improvement from December through February. Employer created a Performance Improvement Plan for claimant on February 15 such that claimant could focus on those areas in Standards 3 and 6 needing improvement.

As of March 18, 2024 employer brought in a co-teacher to assist claimant during the math block of the day. Another co-teacher was also set to assist claimant with her classroom management. Claimant continued to have a large number of office referrals out of her classroom, averaging 1-3 students per day out of the classroom. At least once a day she was having students removed from her class.

Claimant was not extended a contract for the next year as employer did not believe her to be a good fit as a classroom teacher for the district. Claimant was given the choice between signing a resignation that would be effective at the end of the school year or having an effective termination through the lack of a tender offer for the next year. Claimant chose to resign. On May 13, 2024, employer stated in a Performance Review Summative Evaluation that the claimant did not meet the Iowa Teaching Standards Criteria. The instructions for the form indicate in bold **[If the box is marked, the evaluator must state which standard(s) and criteria, and/or district expectation(s) is(are) not met and identify in the comments section information and evidence used to make the decision.]** Employer simply marked that claimant did not meet any of the eight standards and stated in the comments that claimant did not show sufficient growth after being placed on an action plan involving MEA. It further stated to see the action plan for areas of concern.

Claimant stated that throughout the time working for employer she tried her best. She indicated that coming into a class nearly two months after school had started was difficult as children in her class were used to dealing with substitute teachers.

REASONING AND CONCLUSIONS OF LAW:

Initially, this matter is being evaluated as a termination and not a voluntary quit even though claimant did sign a resignation notice. The reason for this is that employer stated that claimant would not be employed irrespective of whether claimant chose to sign a resignation letter or not. Ongoing employment was not available to claimant. Employer determined that claimant's job was not to continue after the end of the school year. That is a termination of employment, even if the employer had claimant sign a resignation letter that may be of benefit to both the claimant and the employer.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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. For the purposes of this rule, "misconduct" is defined as a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is 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 a 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. Misconduct by an individual includes but is not limited to all of the following:

- (1) Willful and deliberate falsification of the individual's employment application.

- (2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

- (3) Intentional damage of an employer's property.

- (4) Consumption of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in a manner not directed by the manufacturer, or a combination of such substances, on the employer's premises in violation of the employer's employment policies.

- (5) Reporting to work under the influence of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in an off-label manner, or a combination of such substances, on the employer's premises in violation of the employer's employment policies, unless the individual is compelled to work by the employer outside of scheduled or on-call working hours.

- (6) Conduct that substantially and unjustifiably endangers the personal safety of coworkers or the general public.

- (7) Incarceration for an act for which one could reasonably expect to be incarcerated that results in missing work.

- (8) Incarceration as a result of a misdemeanor or felony conviction by a court of competent jurisdiction.

- (9) Excessive unexcused tardiness or absenteeism.

(10) Falsification of any work-related report, task, or job that could expose the employer or coworkers to legal liability or sanction for violation of health or safety laws.

(11) Failure to maintain any license, registration, or certification that is reasonably required by the employer or by law, or that is a functional requirement to perform the individual's regular job duties, unless the failure is not within the control of the individual.

(12) Conduct that is libelous or slanderous toward an employer or an employee of the employer if such conduct is not protected under state or federal law.

(13) Theft of an employer's or coworker's funds or property.

(14) Intentional misrepresentation of time worked or work carried out that results in the individual receiving unearned wages or unearned benefits.

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).

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982), Iowa Code § 96.5-2-a.

The employer bears the burden of proving that a claimant is disqualified from receiving benefits because of substantial misconduct within the meaning of Iowa Code section 96.5(2). *Myers*, 462 N.W.2d at 737. The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. Because our unemployment compensation law is designed to protect workers from financial hardships when they become unemployed through no fault of their own, we construe the provisions "liberally to carry out its humane and beneficial purpose." *Bridgestone/Firestone, Inc. v. Emp't Appeal Bd.*, 570 N.W.2d 85, 96 (Iowa 1997). "[C]ode provisions which operate to work a forfeiture of benefits are strongly construed in favor of the claimant." *Diggs v. Emp't Appeal Bd.*, 478 N.W.2d 432, 434 (Iowa Ct. App. 1991).

In this matter, there was no 'last incident' that led to claimant's termination, but rather claimant's inability to lead her classroom to the satisfaction of employer, even with the assistance of other helpers. Employer has not alleged that claimant has disregarded employer's guidance or that claimant refused to even try the suggestions offered by employer. Rather, employer is alleging that claimant was unable, even with help to properly lead the class and satisfy the Iowa Teaching Standards Criteria. Iowa law requires either a willful and wanton disregard of employer's interests found in a deliberate disregard for standards of behavior or carelessness or negligence that would manifest an equal amount of culpability. Iowa Admin. Code r. 871-24.32(1)a.

What has arguably been shown through employer's testimony and documentation is that claimant is not equipped to be a classroom teacher of sixth grade students. The employer has not shown either willful disregard or negligence on the part of claimant. These are the requirements to show misconduct, and employer has shown neither.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. The lack of a current warning may detract from a finding of an intentional policy violation.

In this matter, the evidence fails to establish that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning classroom control and preparation.

The last incident, which brought about the discharge, fails to constitute misconduct because employer did not show that claimant was doing less than the best of her abilities to lead the class. Claimant may not have had the skills necessary to be a successful teacher of sixth graders. The termination may well have been justified, but it was not for misconduct under the laws of the state. The administrative law judge holds that claimant was not discharged for an act of misconduct and, as such, is not disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated August 21, 2024, (reference 01) is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.



Blair Bennett | Administrative Law Judge II
Iowa Department of Inspections & Appeals

September 12, 2024
Decision Dated and Mailed

BAB/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.