

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHARLES GRYP**  
Claimant

**DELANA MICHEL**  
Employer

**APPEAL 22A-UI-03131-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/05/21  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Admin. Code r. 871-24.32(1)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant, Charles Gryp, filed an appeal from the January 11, 2022, (reference 01) unemployment insurance decision that denied benefits based upon the conclusion he was discharged for violation of a known company rule. The parties were properly notified of the hearing. A telephone hearing was held on March 1, 2022. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant's separation from employment was disqualifying?

**FINDINGS OF FACT:**

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

The claimant was employed full-time as a melt shop helper from July 23, 2018, until this employment ended on December 10, 2021, when he was discharged. The claimant reported directly to Team Leader Matt Piet.

The employer has an employee handbook. The employee handbook has a provision in it stating that an employee should call the employer's safety and medical department, after suffering from a work-related injury. The claimant received a copy of the employee handbook.

On December 4, 2021, the claimant used a long pole to knock molten slag from the gate on the front of the furnace. This caused molten slag to fall off which started a small fire on reflective chaps he was wearing. The fire crept up probably one or two inches before he put it out. This is a common occurrence for employees in the claimant's position. In fact, the claimant states that nearly all of the other employees in his position have marks on their chaps from previous times they have been singed by a flame. The previous week, the claimant worked the furnace near Mr. Piet. Mr. Piet did not say anything about reporting these incidents to the employer's safety department.

On December 10, 2021, Operations Manager Randy Petty terminated the claimant for not informing the employer's safety and medical department after his pants were singed on December 4, 2021.

The claimant had not been disciplined by the employer in the past.

### **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 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa

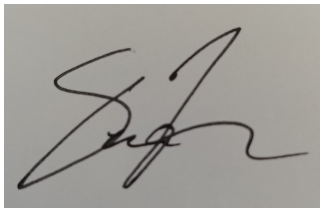
Ct. App. 1984). Misconduct must be “substantial” to warrant a denial of job insurance benefits. *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment 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, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee’s act is misconduct does not rest solely on the interpretation or application of the employer’s policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

The conduct for which claimant was discharged was merely an isolated incident of poor judgment. The claimant did not report the small flame on his chaps. The claimant reasonably believed this was not within the scope of the employee handbook provision stating an injury must be reported immediately to the safety and medical department. This is because Mr. Piet noticed a similar flame on his chaps the previous week and did not report these incidents to safety and medical department. In any event, the claimant had not been warned prior to his termination under similar circumstances. Benefits are granted.

**DECISION:**

The January 11, 2022, (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



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Sean M. Nelson  
Administrative Law Judge  
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March 23, 2022  
Decision Dated and Mailed

smn/kmj