



Department of Inspections,
Appeals, & Licensing

Iowa Department of Inspections, Appeals, & Licensing
Administrative Hearings Division
6200 Park Avenue, Suite 100, East Entrance
Des Moines, IA 50321-1270

Appeal Decision

Claim Number:
[REDACTED]

Determination Number:
4501279

Appeal Filed By:
R AND D EVENTS AND RENTAL, LLC

Appeal Filed Date:
06/03/2025

Appeals Bureau Docket:
2025142096-AT



APPEALS BUREAU DECISION OF ADMINISTRATIVE LAW JUDGE

Mail Date: August 11, 2025

Appellee

Claimant/Job Seeker: Jill Kennedy

Claimant address: [REDACTED]

Social Security Number: [REDACTED]

Appellant

Employer: R And D Events And Rental, Llc

Employer address: [REDACTED]

In regard to the appeal by R AND D EVENTS AND RENTAL, LLC:

STATUTORY REFERENCE

Iowa Code Section 96.5(2)(a) - Discharge for Misconduct

ISSUES STATEMENT

Whether the claimant was discharged for misconduct in connection with the employment.

CASE HISTORY

On June 3, 2025, the employer filed a timely appeal from the May 27, 2025 (reference 01) decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, and that held the employer's account could be charged for benefits, based on the IWD deputy's conclusion that the claimant was discharged on May 7, 2025 for no disqualifying reason. After appropriate notice to the parties, an appeal hearing was held on August 1, 2025. Kaelyn Albaugh represented the employer. Jill Kennedy (claimant) did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Exhibits 1 (excluding the second to last paragraph), 2, 3 and 5 were received into evidence. Exhibit 4 was not admitted. The administrative law judge took official notice of the IowaWORKS.gov payment record, which reflects that no unemployment insurance benefits were paid to the claimant in connection with the May 4, 2025 original claim.

Equal Opportunity:

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The employer did not receive the subpoena that the administrative law judge issued in this matter but provided a reasonable response to the subpoena at the time of the appeal hearing. The employer credibly stated in response to the subpoena that the materials referenced in the subpoena do not exist and therefore could not be produced in response to the subpoena.

FINDINGS OF FACT

Jill Kennedy (claimant) was employed by R and D Events and Rental, L.L.C. from November 2023 until May 7, 2025, when the employer discharged her from the employment. Ms. Kennedy was a full-time warehouse supervisor at the time of discharged. Ms. Kennedy supervised one staff member, Katelynn Clefisch. Ms. Kennedy was responsible for pulling orders for upcoming events, counting items before they went out for events, counting items returning to inventory after events, overseeing laundry and steaming duties, and helping with events as needed. Co-owner Kaelynn Albaugh was Ms. Kennedy's supervisor. The employer also employed a General Manager, Tyler Albers, who supervised other staff and operations.

The employer's decision to discharge Ms. Kennedy followed repeated instances in which Ms. Kennedy was verbally abusive toward others in the workplace. The final incident occurred on May 7, 2025, when Ms. Kennedy was verbally abusive toward Ms. Clefisch. Ms. Kennedy yelled at and directed profanity at Ms. Clefisch. Ms. Albaugh was away from the workplace at the time incident. Three staff members contacted Ms. Albaugh to alert her to Ms. Kennedy's conduct toward Ms. Clefisch. Ms. Albaugh promptly returned to the workplace and confirmed with staff present that Ms. Albaugh had been verbally abusive toward Ms. Clefisch. When Ms. Albaugh notified Ms. Kennedy that she was discharged and asked for her work keys, Ms. Kennedy responded with a profanity-laced rant that ended with Ms. Kennedy telling Ms. Albaugh, "Go fuck yourself."

The final incident that triggered the discharge was part of a pattern of behavior that employer had attempted to address through earlier counseling and discipline. On March 31, 2025, Ms. Kennedy told Ms. Albaugh that Ms. Clefisch and another employee were not steaming properly and Ms. Ms. Albaugh was "not going to fucking take of it" Ms. Kennedy would. Ms. Kennedy added that Ms. Albaugh was an embarrassment to work for and was "a fucking joke." Ms. Kennedy then went to Ms. Albaugh's husband, the other owner, to whom she repeated the threat to "fucking take care of" staff and asserted Ms. Albaugh had no backbone. Ms. Albaugh issued a written reprimand on March 31, 2025 in which she directed Ms. Kennedy to "Refrain from using profanity, yelling, or engaging in any disrespectful or disruptive behavior" and warned that further incidents could lead to disciplinary action up to and including termination of the employment. On April 7, 2025, Ms. Albaugh met with Ms. Kennedy and presented Ms. Kennedy with a performance review document that included the following: "This is hopefully a reset button. But this is the last chance to improve your delivery, communication and presentation to owners[,] managers and other employees respectfully and in a civil manner. Any more outbursts or outright disrespect to anyone you will be asked to leave and will be considered self-resignation."

Ms. Kennedy signed to acknowledge the March 31, 2025 reprimand and the April 7, 2025 performance review.

Within a week prior to the discharge, Ms. Kennedy got angry when some high school employees threw a football in an area of the warehouse where Ms. Kennedy did not ordinarily work. Mr. Albers was the employees' supervisor. Ms. Kennedy went to Mr. Albers and told him to "Get your staff under control or I'm going to pop that fucking football on their head." Mr. Albers referred Ms. Kennedy to Ms. Albaugh, who directed Ms. Kennedy back to her work area.

Prior to discharging Ms. Kennedy from the employment, Ms. Albaugh learned that Ms. Kennedy



had drawn a “Hitler mustache” on a photo of Ms. Clefisch as a form of harassment based Ms. Kennedy's disagreement with Ms. Clefisch's political perspective.

Ms. Kennedy established an original claim for unemployment insurance benefits that was effective May 4, 2025, but has received no benefits in connection with the claim.

CONCLUSION OF LAW

Iowa Code section 96.5(2)(a) and (d) provides as follows:

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.

...

d. For the purposes of this subsection, “misconduct” means 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 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:

...

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

...

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

...

(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.

...

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

Allegations of misconduct or dishonesty without additional evidence are not sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See Iowa Admin. Code rule 871-24.24(3).



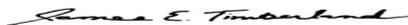
While past acts and warnings can be used to determine the magnitude of the current act of misconduct, a discharge for misconduct cannot be based on such past act(s). The termination of employment must be based on a current act. See Iowa Admin. Code rule 871-24.24(7). In determining whether the conduct that prompted the discharge constituted a “current act,” the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*, 426 N.W.2d 659, 662 (Iowa App. 1988).

An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the employee from receipt of unemployment insurance benefits. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995). Use of foul language can alone be a sufficient ground for a misconduct disqualification for unemployment benefits. *Warrell v. Iowa Dept. of Job Service*, 356 N.W.2d 587 (Iowa Ct. App. 1984). An isolated incident of vulgarity can constitute misconduct and warrant disqualification from unemployment benefits, if it serves to undermine a superior's authority. *Deever v. Hawkeye Window Cleaning, Inc.*, 447 N.W.2d 418 (Iowa Ct. App. 1989).

The evidence in the record establishes a May 7, 2025 discharge for misconduct in connection with the employment. Each of the incidents that factored in the discharge involved misconduct in connection with the employment and were part of a pattern of directing profane and offensive language at others in the workplace, including a subordinate and the employer. Each incident and the pattern of conduct demonstrated a willful and wanton disregard of the employer's interest in maintaining a civil workplace. The claimant is disqualified for unemployment insurance benefits until the claimant has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged. Because the claimant has not received benefits in connection with the claim, there is no overpayment of benefits to address.

DECISION/REMAND

The May 27, 2025 (reference 01) decision is REVERSED. The claimant was discharged on May 7, 2025 for misconduct in connection with the employment. The claimant is disqualified for unemployment insurance benefits until the claimant has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James TIMBERLAND

Administrative Law Judge

Iowa Department of Inspections, Appeals, & Licensing

Administrative Hearings Division

Unemployment Insurance Appeals Bureau

Please see the last page of this document for important information about reopening the appeal and further appeal rights.



INSTRUCTIONS FOR FILING AN APPEAL

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:

Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, IA 50321
Fax: (515)281-7191
Online: IowaWORKS account

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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

1. A reference to the decision from which the appeal is taken.
2. That an appeal from such decision is being made and such appeal is signed.
3. 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 then file a petition for judicial review in district court.

2. If no one files 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 Iowa Code 17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17a.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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 Iowa 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 the 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.



Babel Notice – Claim and Appeal Information

Aviso: Aviso: Documento De Beneficios Del Seguro De Desempleo
Y Información De Apelación

IMPORTANT!

This document contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document. **DEADLINE FOR APPEAL:** If you disagree with this determination or decision, you must file an appeal before the deadline noted in this document. **IMMEDIATELY:** If needed, call 866-239-0843 for assistance in the translation and understanding of the information in the document(s) you have received.

¡IMPORTANTE!

Este documento contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento. **PLAZO LÍMITE PARA APELAR:** Si usted está en desacuerdo con esta determinación o decisión, debe presentar una apelación antes del plazo límite indicado en este documento. **INMEDIATAMENTE:** Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 866-239-0843.

重要提示！

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。

上诉截止日期：如果您不同意本裁定或决定，您必须在本文件所载截止日期前提出上诉。**立即：**如果需要，请拨打866-239-0843，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

IMPORTANT!

Ce document contient des informations importantes sur vos droits d'allocation de chômage, vos responsabilités et/ou vos bénéfices. Il est indispensable que vous compreniez le contenu de ce document. **DATE LIMITE POUR FAIRE APPEL:** Si vous n'êtes pas d'accord avec cette détermination ou décision, vous devrez faire un appel avant la date limite signalée dans ce document. **IMMÉDIATEMENT:** Si nécessaire, téléphonez au 866-239-0843 pour avoir de l'assistance sur la traduction et/ou la compréhension de ce document.

WICHTIG!

Diese Dokument enthält wichtige Hinweise zu ihren Rechten, Pflichten bzw. Leistungen im Rahmen der Arbeitslosenunterstützung. Es ist entscheidend, dass Sie die Informationen in diesem Dokument verstehen. **FRIST ZUR BESCHWERDEEINLEGUNG:** Wenn Sie mit der Feststellung oder Entscheidung nicht einverstanden sind, müssen Sie vor Ablauf der in diesem Dokument aufgeführten Frist eine Beschwerde einlegen. **SOFORT:** Sofern erforderlich, rufen Sie die Telefonnummer 866-239-0843 an und erkundigen sich nach Hilfsdiensten bei der Übersetzung und zum Verständnis der Informationen in dem (den) von Ihnen erhaltenen Dokument(en).

IMPORTANTE!

Ang mga dokumentong ito ay naglalaman ng mahalagang impormasyon tungkol sa iyong mga karapatan na makatanggap ng kabayaran, mga responsibilidad at /o benepisyo dahil sa pagkawala ng trabaho. Napakahalagang maunawaan mo ang mga impormasyong nilalaman sa dokumentong ito. **HULING ARAW PARA UMAPILA:** Kung hindi ka sumasang-ayon sa pagpapasiya o desisyon, dapat kang maghabol o magharap ng apila bago dumating ang huling araw na nabanggit sa dokumentong ito. **KAAGAD:** Kung kinakailangan ang tulong, tumawag sa 866-239-0843 para sa pagsasalin ng wika at pag-unawa ng impormasyon sa mga dokumentong natanggap mo.

IMPORTANTE:

Questo documento contiene informazioni importanti sui Suoi diritti di indennizzo di disoccupazione, sulle sue responsabilità e i suoi benefit. E' cruciale che Lei comprenda appieno le informazioni contenute in questo documento. **SCADENZA PER IL RICORSO:** Se non si trova in accordo con questa determinazione o decisione, dovrà presentare ricorso prima della scadenza riportata nel presente documento. **INMEDIATAMENTE:** In caso di necessità chiami il 866-239-0843 per assistenza alla traduzione e comprensione delle informazioni contenute nei documenti ricevuti.

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Tài liệu này chứa đựng tin tức quan trọng về quyền hạn, trách nhiệm và/hoặc những lợi lộc được đền bù trong khi thất nghiệp. Đó là điều tối cần thiết mà quý vị phải hiểu rõ những tin tức trong tài liệu này. **HẠN CHÓT KHIẾU NẠI:** Nếu quý vị không đồng ý với quyết định này, quý vị phải nộp đơn khiếu nại trước hạn chót ghi rõ trong tài liệu này. **MỘT CÁCH NHANH CHÓNG:** Nếu cần xin hãy gọi số 866-239-0843 để được giúp đỡ trong việc phiên dịch và hiểu rõ những tin tức trong tài liệu quý vị đã nhận.

중요!

이 문서는 실업보상 권리, 책임 및/또는 혜택에 대한 중요한 정보가 포함되어 있습니다. 이 문서에 있는 정보를 이해 하는 것은 매우 중요합니다. **항소 마감:** 이 결정에 이견이 있으시면 항소인은 문서에 언급된 마감일 전에 항소를 제기하셔야 합니다. **즉시:** 받으신 문서의 번역 및 이해를 위해서 도움이 필요하시면 866-239-0843 로연락을 하시기 바랍니다.

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Dokumenty mogą zawierać ważne informacje o Pana(-i) prawach do zasiłków dla bezrobotnych, obowiązków i/lub świadczeń. Zrozumienie informacji zawartych w niniejszym dokumencie jest bardzo ważne. **DATA WYGAŚNIĘCIA TERMINU SKŁADANIA ODWOŁAŃ:** Jeśli nie zgadza się Pan(-i) z decyzją zawartą w niniejszym dokumencie, odwołanie należy złożyć przed datą wygaśnięcia terminu wyszczególnionego w treści niniejszego dokumentu. **NATYCHMIAST:** W razie potrzeby, należy dzwonić pod 866-239-0843 w celu uzyskania pomocy w tłumaczeniu i zrozumieniu informacji w dokumentach, które Pan(i) otrzymał(-a).

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VAŽNO!

Ovaj dokument sadrži važne informacije o vašim pravima za naknadu nezaposlenosti, odgovornostima i/ili beneficijama. Veoma je važno da shvatite informacije u ovom dokumentu. **ROK ZA ŽALBU:** Ako se ne slažete s ovim određivanjem ili odlukom, morate uložiti žalbu prije roka navedenog u ovom dokumentu. **ODMAH:** Ako je potrebno, nazovite 866-239-0843 za pomoć u prijevodu i razumijevanju informacija u dokumentu(ima) kojeg ste primili.

ໝາງເຫລາະ

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هام!

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