

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

WILLIAM DIXON
Claimant

AMAZON.COM SERVICES, INC.
Employer

DIA CASE NO. 23IWDUI0005

IWD APPEAL NO. 22A-UI-14293

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/29/22
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On June 23, 2022, the claimant/appellant, William Dixon, filed an appeal from the June 17, 2022 (reference 01) unemployment insurance decision that determined he was not eligible for unemployment insurance benefits because he was discharged from work for violation of a known company rule. The parties were properly notified of the hearing. A telephone hearing was held on August 19, 2022 before Administrative Law Judge Laura Lockard. The claimant, William Dixon, participated and presented testimony. The employer, Amazon.com Services, Inc., participated through Jeffrey Willoughby, human resources partner, who presented testimony. The administrative law judge took administrative notice of the June 17, 2022 decision, the claimant's appeal, and the documents that were provided by the parties during the factfinding process. The factfinding documents include a Fact-Finding Worksheet for Discharge, a policies and procedures document and safety standards of conduct document submitted by the employer, and employer feedback documents dated February 11, April 27, and May 27, 2022.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

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

Claimant William Dixon was employed by Amazon.com Services, Inc. as a full-time transportation team associate beginning November 26, 2020. Dixon's direct supervisor was Johnny Hardan. Under Amazon's progressive discipline policy, a written warning stays on an employee's record for 90 days.

On April 27, 2022, Dixon received a Supportive Feedback Document from the employer. The document notes that it is a final written safety warning. The document indicates that Dixon was

involved in a safety incident on March 30, 2022 and did not report it to his manager. Specifically, Dixon performed a blind-side backing maneuver in a hostler¹ and made contact with a trailer that was dock locked and had an associate inside working. Dixon did not call out the contact and continued with the backing maneuver. Under the Amazon Safety Standards of Conduct, associates are to use a spotter when conducting a blind-side back.

On May 16, 2022, Dixon and another employee, Pedro, were assigned to complete a yard audit. The yard is the part of the Amazon facility where vehicles, including tractor trailers and hostlers, are operating. Pedro was designated as the auditor and Dixon was designated as the spotter. Whenever employees are in the yard at the Amazon facility, one employee is performing the designated action and the other is acting as spotter to make sure the area is safe and secure. The spotter is required to be within five feet of the auditor at all times.

The yard audit that Dixon and Pedro were assigned to complete on May 16 was at an offsite yard that is not adjacent to the main building. Dixon and Pedro had not been specifically trained on auditing the offsite lot. Upon arrival at the offsite lot, they tried to figure out where to start and what to do but needed further instruction. Dixon began having a back spasm at the offsite lot. He and Pedro discussed calling back to a supervisor for instruction on how to complete the offsite yard audit. Dixon asked Pedro to make the call to the office for assistance. After Pedro made the call and while they were waiting for someone to come assist, Dixon told Pedro that he needed to sit down for a minute to attempt to relieve his back spasm. Dixon sat down on the curb. Pedro walked away from Dixon. Pedro and Dixon were separated for not more than three to five minutes before supervisors arrived to assist with the yard audit and asked Dixon why he was not spotting. Pedro was on the other side of an immobile cargo trailer from Dixon when the supervisors arrived. After the incident, Dixon went to the employee wellness center to address his back spasm. Dixon was aware of the spotting rule and understood its importance in the yard at Amazon. When Dixon told Pedro he needed to sit down for a minute, he did not think Pedro would leave him as they were simply awaiting instruction and did not yet know what tasks needed to be completed.

Dixon was terminated on May 27, 2022 as a result of the May 16 incident. Dixon's infraction was considered by the employer to be a category 1 infraction, the most severe safety infraction possible. A category 1 infraction normally results in termination, but can be downgraded with manager approval to a final written warning. Dixon was still under written warning from the April 27 incident, therefore the employer determined that termination was warranted.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged from employment for a disqualifying reason. Benefits are allowed.

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.

Iowa Admin. Code r, 871-24.32(1) provides, in relevant part:

¹ A hostler is a vehicle used to transport trailers around the yard.

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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

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 v. Emp't Appeal Bd.*, 462 N.W.2d 734, 737 (Iowa App. 1990). 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 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. Iowa Dep't of Job Serv.*, 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." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa App. 1984). The focus is on deliberate, intentional, or culpable acts by the employee. When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* In contrast, 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. *Id.*

When reviewing an alleged act of misconduct, the finder of fact may consider past acts of misconduct to determine the magnitude of the current act. *Kelly v. Iowa Dep't of Job Serv.*, 386 N.W.2d 552, 554 (Iowa App. 1986). However, conduct asserted to be disqualifying misconduct must be both specific and current. *West v. Emp't Appeal Bd.*, 489 N.W.2d 731 (Iowa 1992); *Greene v. Emp't Appeal Bd.*, 426 N.W.2d 659 (Iowa App. 1988).

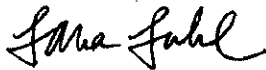
Dixon does not dispute that he was the designated spotter during the relevant incident or that he was not within five feet of Pedro, who was designated to complete the yard audit, when supervisory personnel came to assist them in the offsite yard. Dixon's explanation of events, however, was credible. He had a medical issue that temporarily incapacitated him and he informed Pedro of this while they were waiting for assistance in completing the yard audit. According to Dixon's credible testimony, when he sat down to try to relieve his back spasm he informed Pedro of that fact. The pair was awaiting further instruction and Dixon did not believe

that Pedro would leave his side. While Dixon's conduct constituted a category 1 infraction resulting in termination under the employer's rules, the conduct is not disqualifying misconduct. Dixon's back spasm temporarily incapacitated him and prohibited from discharging his duties as spotter. While Dixon acknowledged at hearing that he could have used his mobile communication device to contact the safety team to request guidance as to how to proceed with his health issue, his failure to do so can properly be characterized as ordinary negligence in an isolated incident or a good faith error in judgment. Dixon believed that he had communicated the issue adequately to Pedro, but despite his efforts the two became separated.

Under these circumstances, the employer has not met its burden of proving that Dixon was discharged for misconduct that disqualifies him from receiving unemployment insurance benefits.

DECISION:

The June 17, 2022 (reference 01) unemployment insurance decision is reversed. Claimant was not discharged from employment for any disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Laura E. Lockard
Administrative Law Judge
Department of Inspections and Appeals
Administrative Hearings Division

8-29-22

Decision Dated and Mailed

CC: William Dixon, Claimant (first class mail)
Amazon.com Services, Inc., Employer (first class mail)
Joni Benson (by email)

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:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.

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 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 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:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.

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 nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.

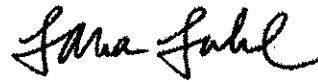
Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

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

Case Title: WILLIAM J. DIXON V. AMAZON.COM SERVICES, INC.
Case Number: 23IWDUI0005
Type: Proposed Decision

IT IS SO ORDERED.



Laura Lockard, Administrative Law Judge