

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**MICHAEL J HACKETT
1162 KERN ST
WATERLOO IA 50703**

**CRAFT COCHRAN SCREEN
PRINTING INC
1111 ANSBOROUGH AVE
WATERLOO IA 50701**

**Appeal Number: 04A-UI-07965-HT
OC: 09/31/04 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant, Michael Hackett, filed an appeal from a decision dated July 14, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 13, 2004. The claimant participated on his own behalf. The employer, Craft Cochran Screen Printing, Inc. (Craft), participated by Business Manager Linda Miles.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Michael Hackett was employed by Craft from November 3, 2003 until June 21, 2004. He was a full-time screen printer.

In the course of his employment, the claimant made some serious errors in setting up the screen printing jobs. When certain customers reorder, an existing "vellum" is used for the print job. However, the printer must first check the information on the order to make certain the same colors are to be used. Mr. Hackett printed at least two large jobs without doing this, with the result that the order was incorrect and could not be sent to the customer. This resulted in lost time, revenue, materials and customer dissatisfaction.

The owners held a meeting with the entire staff and generally discussed errors. Previous methods of dealing with such mistakes could no longer be used, under advise from the employer's legal counsel. The staff was, therefore, told that there would likely be a "three-strike" policy instituted, which meant three major errors by an employee would result in discharge.

On June 21, 2004, the claimant set up a screen print job and again failed to consult with the information on the order. He printed the entire order with the wrong colors. He was sent home by Co-Owner Steve Miles who then consulted with the rest of the management about the most appropriate course of action. It was decided to discharge Mr. Hackett and he was informed by Mr. Miles over the phone.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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).

Although it was not done specifically as a one-on-one disciplinary action, the claimant, along with all the other staff, was advised that major errors, resulting from failure to properly check the screen print set-ups, could result in discharge after three occurrences. The claimant provided not explanation as to why he failed to check the information on the order before setting up and running the screen print jobs. He had been advised he needed to do this. Although his errors may not have been intentional and deliberate, they did constitute negligence to such a degree as to evidence equal culpability. This is conduct not in the best interest of the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 14, 2004, reference 01, is affirmed. Michael Hackett is disqualified, and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/tjc