

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

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**TERRY L CASSATT**  
Claimant

**CHICAGO RIVET & MACHINE CO**  
Employer

**APPEAL 24A-UI-05566-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/25/23  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Terry L Cassatt, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) June 4, 2024 (reference 03) unemployment insurance (UI) decision. IWD denied Mr. Cassatt REGULAR (state) UI benefits because IWD concluded the employer discharged him from employment on May 1, 2024 for conduct not in the best interest of the employer. On June 12, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Cassatt and the employer for a telephone hearing scheduled for June 27, 2024.

The administrative law judge held a telephone hearing on June 27, 2024. Mr. Cassatt participated in the hearing personally. The employer Kurtis Amos, plant manager. The administrative law judge admitted Department's Exhibit 1 and Claimant's Exhibit A as evidence.

The administrative law judge concludes Mr. Cassatt is not eligible for UI benefits based on how his job ended with this employer.

**ISSUE:**

Did the employer discharge Mr. Cassatt from employment for disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Cassatt began working for the employer in February 2023. He worked as a full-time inspector. His employment ended on May 1, 2024.

On May 1, Mr. Cassatt demanded that Mr. Amos, his boss, reprimand another employee (Employee A) because Employee A made inappropriate comments to Mr. Cassatt and said something to the effect of "we work really fucking hard." Mr. Amos responded that he would decide what to do. Mr. Cassatt became upset at what he perceived as Mr. Amos' lack of action.

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

Mr. Cassatt then told Mr. Amos, "Fuck you." Mr. Amos walked away, and Mr. Cassatt went on a smoke break.

About 20 minutes later, as Mr. Amos was walking in the plant Mr. Cassatt yelled "deal with it" to Mr. Amos referring to his earlier demand to reprimand Employee A. Mr. Amos went to Mr. Cassatt and explained that Mr. Amos would decide what to do. Mr. Cassatt began yelling at Mr. Amos and yelled "fuck you" to Mr. Amos. Mr. Amos told Mr. Cassatt to go home. Mr. Cassatt responded by yelling "fuck you" again to Mr. Amos and left.

The employer does not have a handbook. But the employer has a posted rule by the time clock directing employees to treat each other with respect. The employer concluded that Mr. Cassatt violated this rule when he cursed at Mr. Amos. Toward the end of the workday on May 1, Mr. Amos told Mr. Cassatt via telephone that his employment was over.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer discharged Mr. Cassatt from employment on May 1, 2024 for disqualifying, job-related misconduct.

Iowa Code section 96.5(2)(a) and (d) provide, in relevant part:

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.

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.

The employer has the burden of proof in establishing disqualifying job misconduct.<sup>2</sup> The issue is not whether the employer made a correct decision in separating the claimant from employment, but whether the claimant is entitled to unemployment insurance benefits.<sup>3</sup> Misconduct must be "substantial" to warrant a denial of job insurance benefits.<sup>4</sup>

The employer may establish reasonable work rules and expect employees to abide by them. The use of profanity or offensive language in a confrontational, disrespectful, or name-calling

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<sup>2</sup> *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

<sup>3</sup> *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

<sup>4</sup> *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made.”<sup>5</sup> However, the claimant’s use of one instance of profanity, when not used in front of customers, accompanied by threats or in a confrontational manner does not rise to the level of misconduct.<sup>6</sup> 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 case, Mr. Cassatt directed profanity in a name-calling manner to Mr. Amos, his boss, at least three times. This is misconduct. Mr. Cassatt’s frustration about how other employees treated him, or Mr. Amos’ lack of action on Mr. Cassatt’s complaints do not excuse Mr. Cassatt’s behavior. The employer has established disqualifying, job-related misconduct on the part of Mr. Cassatt. So, Mr. Cassatt is not eligible for UI benefits.

**DECISION:**

The June 4, 2024 (reference 03) UI decision is AFFIRMED. The employer discharged Mr. Cassatt from employment on May 1, 2024 for disqualifying, job-related misconduct. Mr. Cassatt is not eligible for UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.



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Daniel Zeno  
Administrative Law Judge

June 28, 2024  
Decision Dated and Mailed

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<sup>5</sup> Myers v. Emp’t Appeal Bd., 462 N.W.2d 734 (Iowa Ct. App. 1990).

<sup>6</sup> See Nolan v. Emp’t Appeal Bd., 797 N.W.2d 623 (Iowa Ct. App. 2011), distinguishing Myers (Mansfield, J., dissenting) (finding the matter to be an issue of fact “entrusted to the agency.”).

**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 IA 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.

**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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines IA 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.

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.