

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TROY GROENEVELD**  
Claimant

**DIA APPEAL NO. 22IWDUI0103  
IWD APPEAL NO. 22A-UI-03308**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KRUGER FARMS, INC.**  
Employer

**OC: 12/26/21  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the January 12, 2022 (reference 01) unemployment insurance decision that denied benefits based upon claimant's discharge from employment for conduct not in the best interest of the employer. The parties were properly notified of the hearing. A telephone hearing was held on March 22, 2022 before Administrative Law Judge Laura Lockard. The claimant, Troy Groeneveld, participated and presented testimony. The employer, Kruger Farms, Inc., participated through Klayton Kruger, operations manager. The administrative law judge took administrative notice of the January 12, 2022 decision and the claimant's appeal.

**ISSUE(S):**

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

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

Claimant Troy Groeneveld was employed as a general farm labor equipment operator and truck driver with Kruger Farms, Inc. Groeneveld began employment with the employer on a part-time basis in July 2020; he transitioned to full-time employment in January 2021. Groeneveld's direct supervisor was operations manager Klayton Kruger.

Groeneveld operated a number of vehicles as part of his employment, including a backhoe, combine, grain truck, and mix truck or tender truck for chemicals. The employer runs two grain trucks and Groeneveld was one of only two employees who operated the grain trucks. At the time of hire, Groeneveld held a driver's license that permitted him to operate the necessary farm machinery and other vehicles. The driver's license was a necessary prerequisite to be hired in the position of farm labor equipment operator and truck driver.

During the early part of 2021, the employer received a call from someone in the community who saw Groeneveld driving a truck with the employer's name on it and reported that Groeneveld was driving poorly. The employer had no additional details about what the driving behaviors were that the caller witnessed and took issue with. Kruger discussed the issue with Groeneveld, who disputed the report and stated that the caller had been driving poorly. Apart from discussing the matter with Groeneveld, the employer took no additional action based on this report.

On December 14, 2021, Groeneveld was arrested and charged with operating while intoxicated. The arrest took place outside of work hours; Groeneveld was not driving for work or driving a work vehicle when he was arrested. Groeneveld appealed the administrative revocation of his driver's license that accompanied the OWI arrest and a stay was granted during the pendency of that appeal, meaning that Groeneveld retained his driving privileges. As of the date of the hearing in this matter, Groeneveld's criminal OWI case was still pending. Groeneveld was uncertain of the status of his appeal of the administrative revocation, but he retained his driving privileges from the time of arrest through the unemployment insurance hearing date and did not lose them at any point between reporting the OWI incident to his employer and his termination.

Groeneveld informed the employer about the OWI arrest within approximately one week of its occurrence. Groeneveld told Kruger that he did not think the charge was going to stick. After Groeneveld informed Kruger of the arrest, Kruger terminated Groeneveld's employment. Kruger did not ask for or receive details about the impact of the arrest on Groeneveld's driving privileges. He believed that with the one report of poor driving and the subsequent OWI arrest it was best to terminate Groeneveld's employment. Kruger believed it would have put the employer in a difficult position to wait for the results of the OWI charge. If Groeneveld's driving privileges had been suspended or revoked, there would not have been work for him with the employer in his present role.

#### **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 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 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.

Iowa Admin. Code r. 871-24.32(1) defines misconduct as follows:

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 Services*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving that a claimant is disqualified from receiving benefits because of misconduct. *Myers v. Employment Appeal Board*, 462 N.W.2d 734, 737 (Iowa App. 1990) (citation omitted). 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 Service*, 425 N.W.2d 679, 680 (Iowa App. 1988). In order to justify disqualification from unemployment insurance benefits, misconduct must be "substantial." *Newman v. Iowa Dep't of Job Service*, 351 N.W.2d 806, 808 (Iowa App. 1984). The focus is on deliberate or intentional acts by the employee. When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* at 808-09.

In *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 699-700 (Iowa 1980), the Iowa Supreme Court examined the case of a truck driver who was rendered uninsurable for driving purposes based on the number of moving violations he incurred during his employment. The employer considered the employee to be a good employee and wished to keep him on, but was unable to give him nondriving work. After the employer's insurance carrier informed the employer that the carrier would no longer cover the employee due to his driving record, the employer terminated the employee, promising him a position in their warehouse if one opened up. In holding that the claimant was disqualified based on misconduct, the Court concluded:

While he received most of his driving citations during non-work hours and in his personal car, they all bore directly on his ability to work for Hawkeye. Cook knew this, and even expressed fear to Hawkeye about losing his license. He does not claim that anyone forced him to violate the laws of the road, yet he persisted in doing so. The district court correctly construed the law in classifying this case as a separation for misconduct[.]

*Id.* at 702.

In *Galey v. Employment Appeal Board*, 2018 WL 3471602 (Iowa App. 2018), the court of appeals examined a case involving loss of driving privileges of an employee due to an incident involving OWI. In that case, the district court had concluded that the claimant's loss of his driver's license due to a first offense OWI, despite the fact that the OWI occurred while off duty, was connected to his employment. Unlike here, however, the employer in *Galey* was aware that the claimant's driving privileges had been revoked with a date certain by the time that the decision to terminate the employee was made. As the claimant was aware he needed a valid driver's license to perform his job duties, the district court determined that his decision to operate a motor vehicle while intoxicated resulting in the loss of his license showed a willful and wanton disregard of his duties and obligations to his employer. *Id.* at \*3. The court of appeals affirmed the district court, noting that the disqualification statute does not mandate that misconduct be committed on the

employer's time or property. Where it is not possible to complete one's job duties without a driver's license, the loss of an employee's license due to a deliberate act, such as OWI can be job-related misconduct. The court found that the claimant's inability to carry out his key job duty of driving was "self-inflicted" and concluded that his conduct evinced willful and wanton disregard of the duties and obligations to the employer. *Id.* at \*5.

The critical distinction between this case and *Cook* and *Galey* is that in this case the employer has not presented any persuasive evidence that the claimant lost his driving privileges or was otherwise unable to complete his job duties due to the OWI arrest. It is undisputed that the claimant was charged with OWI and that his criminal case and administrative appeal are currently pending. Neither party presented any of the documentation related to the criminal case or the administrative revocation appeal. While the employer appears to have anticipated that a problem may have arisen down the road, there is no evidence that the claimant could not presently complete his job duties at the time he was terminated. Likewise, there is no evidence that the alleged conduct off duty had any impact on the claimant's job performance; it is not alleged that he was engaging in impaired driving on the job and other than one very general complaint of poor driving by a member of the general public there is no indication that the claimant's performance at work was other than acceptable.

The previous report of poor driving does not change the result here or elevate the OWI arrest to the status of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge cannot be based on a past act or acts. The termination must be based on a current act. Iowa Admin. Code r. 871-24.32(8). The employer allowed claimant to continue in his job as a truck and equipment operator for almost a year after the report of poor driving without any additional incidents being reported.

The employer here has not met its burden of proving that the claimant should be disqualified based on misconduct. Had the employer had information that the claimant had lost or was imminently likely to lose his driving privileges or that claimant would not be able to continue driving for other reasons - if, for example, he was uninsurable like the claimant in *Cook* - then the claimant's discharge would have been for misconduct that disqualified him from benefits. Here, however, the employer sought no information about the status of the claimant's driving privileges or whether his arrest for OWI would have an impact on insurability or insurance rates; the employer acted based solely on the information that the claimant had been arrested for OWI. The credible evidence reflects that claimant retained his driving privileges from the date of arrest through the date of the hearing in this matter. Unlike the claimants in *Cook* and *Galey*, the claimant here would have been able to continue working in his present position had he not been terminated.

#### **DECISION:**

The January 12, 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.



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

3-29-22

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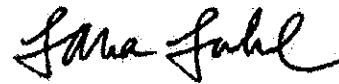
Decision Dated and Mailed

CC: Troy Groeneveld, Claimant (first class mail)  
Kruger Farms, Inc. (first class mail)  
Karen Holett, IWD (email)  
Joni Benson, IWD (AEDMS)

**Case Title:** GROENEVELD V. KRUGER FARMS INC  
**Case Number:** 22IWDUI0103  
**Type:** Proposed Decision

IT IS SO ORDERED.

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A handwritten signature in black ink, appearing to read "Laura Lockard", written in a cursive style.

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Laura Lockard, Administrative Law Judge