

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JON M TAYLOR
Claimant

HACH CO INC
Employer

APPEAL 21A-UI-18088-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/21/20
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

On August 16, 2021, Hach Co Inc (employer/appellant) filed an appeal from the Iowa Workforce Development decision dated August 4, 2021 (reference 03) that allowed unemployment insurance benefits based on a finding claimant was discharged on May 21, 2021 without a showing that the discharge was based on a current act of misconduct.

A telephone hearing was held on October 8, 2021. The parties were properly notified of the hearing. Employer participated by Senior HR Generalist Melissa Evans and was represented by Hearing Rep. Joel Kincaid. Jon Taylor (claimant/respondent) did not register a number for the hearing or participate.

Employer's Exhibits 1-5 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. 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's first day of employment was January 4, 2021. Claimant worked for employer as a full-time associate in a manufacturing position. The last day claimant worked on the job was May 6, 2021. Claimant separated from employment on May 13, 2021. Claimant was discharged on that date.

Claimant was arrested in employer's parking lot during a work break on May 6, 2021. The charges for which claimant was arrested were not related to claimant's employment. However, employer deemed the charges to be so concerning as to warrant discharge. Claimant largely admitted to committing the offenses as charged during a conversation with Evans on May 10, 2021.

Claimant performed work for employer through a third-party beginning in September 2019. Prior to being hired by employer, claimant was disciplined by the third-party employer for making unwanted romantic advances toward coworkers. It is unclear when specifically this occurred.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated August 4, 2021 (reference 03) that allowed unemployment insurance benefits based on a finding claimant was discharged on May 21, 2021 without a showing that the discharge was based on a current act of misconduct is **AFFIRMED**.

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

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 provides in relevant part:

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 Ct. 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 Ct. 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 Ct. 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 Ct. 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. *Newman, 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. *Newman, 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 Ct. 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 Ct. App. 1988).

Because our unemployment compensation law is designed to protect workers from financial hardships when they become unemployed through no fault of their own, we construe the provisions "liberally to carry out its humane and beneficial purpose." *Bridgestone/Firestone, Inc. v. Emp't Appeal Bd.*, 570 N.W.2d 85, 96 (Iowa 1997). "[C]ode provisions which operate to work a forfeiture of benefits are strongly construed in favor of the claimant." *Diggs v. Emp't Appeal Bd.*, 478 N.W.2d 432, 434 (Iowa Ct. App. 1991).


Employer has not carried its burden of proving claimant is disqualified from receiving benefits because of a current act of substantial misconduct within the meaning of Iowa Code section 96.5(2). Benefits are therefore allowed, provided claimant is not otherwise disqualified or ineligible.

The administrative law judge understands why employer chose to discharge claimant. The criminal allegations against claimant and his related admissions are deeply troubling. However, they are unrelated to his employment. Furthermore, the prior discipline occurred when claimant was employed by a third party and so is not misconduct relating to this employment. Misconduct must be connected to the individual's employment in order to disqualify the individual for unemployment insurance benefits.

Because the separation was not disqualifying, the other issues noticed need not be addressed.

DECISION:

The decision dated August 4, 2021 (reference 03) that allowed unemployment insurance benefits based on a finding claimant was discharged on May 21, 2021 without a showing that the discharge was based on a current act of misconduct is AFFIRMED. Benefits are therefore allowed, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
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October 15, 2021
Decision Dated and Mailed

abd/mh