

871—24.24(96) Discharge for misconduct.**24.24(1) Definition.**

- a. “Misconduct” is defined in Iowa Code section 96.5(2)“d.”
- b. Back pay awards are not considered when calculating wages for qualification under Iowa Code section 96.5(2)“a.”

24.24(2) Gross misconduct.

- a. “Gross misconduct” is defined in Iowa Code section 96.5(2)“c.”
- b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney’s information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than \$500 or by imprisonment in the county jail for more than 30 days.
- c. If gross misconduct is established, the department will cancel the individual’s wage credits earned, prior to the date of discharge, from all employers regardless of when the act occurred during the benefit year.

24.24(3) Report required. The claimant’s statement and employer’s statement must give detailed facts as to the specific reason for the claimant’s discharge. Allegations of misconduct or dishonesty without additional evidence are not sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct is resolved.

24.24(4) Trial period. A dismissal, because of being physically unable to do the work, being not capable of doing the work assigned, not meeting the employer’s standards, or having been hired on a trial period of employment and not being able to do the work are not issues of misconduct.

24.24(5) False work application. It is an act of misconduct when a willfully and deliberately false statement, made on a work application, may or does result in endangering the health, safety or morals of the applicant or others, result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy.

24.24(6) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the claimant’s duty to the employer and is considered misconduct except for illness or other reasonable grounds so long as properly reported to the employer.

24.24(7) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

24.24(8) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant’s unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Sheryl A. Coper vs. Iowa Department of Job Service and Blue Cross of Iowa*.

[ARC 8789C, IAB 1/8/25, effective 2/12/25]