

871—24.32(96) Discharge for misconduct.**24.32(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.

b. Any individual who has been discharged or suspended for misconduct connected with work is disqualified for benefits until the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual’s weekly benefit amount, provided the individual is otherwise eligible.

24.32(2) Reserved.**24.32(3) Gross misconduct.**

a. For the purposes of these rules, gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant’s employment, provided that such claimant is duly convicted thereof, has signed a statement admitting that such claimant has committed such act, or has admitted to the department that claimant has committed such act.

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 shall 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.

24.32(4) 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 shall not be 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 shall be resolved.

24.32(5) 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 shall not be issues of misconduct.

24.32(6) False work application. When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

24.32(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

24.32(8) 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.

24.32(9) 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. Cospers vs. Iowa Department of Job Service and Blue Cross of Iowa*.
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