

IN THE COURT OF APPEALS OF IOWA

No. 6-472 / 95-1695

KEITH HAFFER,

000199

Petitioner-Appellant,

vs.

**EMPLOYMENT APPEAL BOARD and
GRAND LABORATORIES, INC.,**

Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, Richard G. Blane, II,
Judge.

The petitioner appeals the district court's decision on judicial review affirming the respondent board's decision determining the petitioner had engaged in misconduct disqualifying him from receiving unemployment benefits. **AFFIRMED.**

Linda Hansen Robbins of Irvine & Robbins, Cedar Rapids, for appellant.

Rebecca Parrott of Dickinson, Mackaman, Tyler & Hagen, P.C., Des Moines,
for appellee employer.

Considered by Cady, P.J., Huitink, J., and Peterson, S.J.*

*Senior judge from the First Judicial District serving on this court by order of the Iowa Supreme Court.

PETERSON, S.J.

This is an appeal by Keith Haffer from the district court's decision on judicial review affirming the Employment Appeal Board's decision determining he had engaged in misconduct and disqualified him from receiving unemployment benefits. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Keith Haffer was employed as director of research and development for Grand Laboratories, Inc. He was employed from September 8, 1992, until April 18, 1995, when he was fired for intimidating and threatening other employees in violation of the company policies.

Haffer claims he was hired to revitalize the company's research department. He further claims he had a hostile relationship with other employees because he had attempted to stop their illegal activities and that he was harassed by other employees.

At Haffer's 1993 year-end review, his supervisor, Ken Waltner, noted Haffer's antagonistic management style and his strained relationship with other members of management.

In February of 1994, Waltner discussed problems Haffer was having with certain coemployees. He then gave Haffer a warning memorandum regarding the hostile relationships Haffer was continuing to have with several named company employees. This memorandum was signed by Waltner and the company president, Dr. Duane Pankratz.

On April 14, 1994, Haffer met with two of the employees named in the memorandum. He indicated to them that they should remove their names from the memorandum and if they did not he would sue them along with the company. On the following day, Haffer approached a third employee also named in the memorandum. That employee said Haffer had threatened her with a lawsuit if she did not get her name off the memorandum. Haffer contended that he was only informing the employees he was considering suing the company concerning the memorandum.

Grand Laboratories, Inc. has an employees manual. It provides that threatening or intimidating management, supervisors, security guards, or fellow employees is prohibited conduct and would subject the individual involved to disciplinary action up to and including termination.

On April 18, 1994, Duane Pankratz, President of Grand Laboratories, Inc., directed a memorandum to Keith Haffer discharging him immediately. One of the reasons given for the discharge was Keith Haffer's threatening and intimidating conduct on April 14 and 15, which Duane Pankratz felt was willfully and wantonly destructive to the personal and professional well-being of the individuals involved.

When reviewing the action of an administrative agency, the trial court, as well as the appellate court, determines whether any errors of law were made by the agency and whether the decision of the agency is supported by substantial evidence. *Mercy Health Ctr. v. State Health Facilities Council*, 360 N.W.2d 808, 810-11 (Iowa 1985).

Keith Haffer's main argument is that he contends his actions did not constitute misconduct because he had a right to begin litigation. The letter terminating his employment pointed out, among other things, that he was terminated for violating a company rule which prohibited threatening and intimidating coworkers. He was not terminated because he was exercising a right to commence litigation. The record contains substantial evidence that Keith Haffer's conduct constituted threats and intimidation against coworkers.

This was a deliberate act which violates not only the appropriate section of the employees manual, but also violates a standard of behavior that an employer has a right to expect of employees, and constitutes misconduct as defined in Iowa Code section 4.32(1). The Employment Appeal Board did not commit any errors of law, and there is substantial evidence to support its decision.

We have considered the other contentions made by Keith Haffer and find them to be without merit. We affirm the decision of the trial court.

AFFIRMED.