

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

BENNIE R SHINN
Claimant

APPEAL NO. 08A-UI-01725-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLMAN DYNAMICS INC
Employer

**OC: 01/06/08 R: 03
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Bennie R. Shinn (claimant) appealed a representative's February 11, 2008 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Wellman Dynamics, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 5, 2008. The claimant participated in the hearing with Becky Young as a potential witness. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on August 23, 2005. The claimant worked as a full-time production supervisor. Prior to November 19, 2007, the claimant had no idea his job was in jeopardy.

On November 19, the employer told the claimant he was discharged but he could sign paperwork indicating he had resigned. The employer told the claimant he no longer had a job because he failed to perform his duties, he failed to support his area, he released confidential or sensitive information to others and unnamed employees reported the claimant destroyed some of the employer's property. Although the claimant denied each allegation and attempted to defend himself against the purported allegations, the employer told him to be quiet because he no longer had a job. The claimant signed paperwork that he resigned so he would receive his salary until the end of the month and some vacation pay.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer initiated the employment separation. Even though the claimant signed paperwork indicating he resigned, he did not have a job even if he did not sign the paperwork. The employer may have had reasons for discharging the claimant, but the facts do not establish that the claimant committed work-connected misconduct. Therefore, as of January 6, 2008, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 11, 2008 decision (reference 01) is reversed. The employer discharged the claimant, but did not establish that the claimant committed work-connected misconduct. As of January 6, 2008, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css