

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES P LINDEN**  
Claimant

**APPEAL NO: 12A-UI-03736-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DUBUQUE STAMPING & MFG INC**  
Employer

**OC: 03/11/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

James P. Linden (claimant) appealed a representative's April 6, 2012 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Dubuque Stamping & Manufacturing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 25, 2012. The claimant participated in the hearing. Gerold Vickerman appeared on the employer's behalf and presented testimony from one other witness, Matt Spahn. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on August 2, 2010. He worked full time on the second shift as utility press operator at the employer's metal stamping business. His last day of work was March 14, 2012. The employer discharged him on March 15, 2012. The stated reason for the discharge was lying to management.

On March 8 the claimant reported a work-related injury to the employer. The employer's human resources manager, as part of putting together information for a workers' compensation claim, asked the claimant if he had any other employment other than with the employer. The claimant answered, "No." On March 9 the claimant was given medical restrictions of no lifting over five pounds and no raising his arms above the shoulder.

On about March 12 another employee reported to the employer that the claimant had been seen working as a security guard at a mall on Sunday, March 11. The employer brought the claimant

back in for a discussion on March 14. After explaining to the claimant that for purposes of the workers' compensation claim that the employer needed to be sure that the claimant was following his restrictions even outside the job, the employer again asked the claimant if he had any employment with any employer other than with the employer. The claimant again answered, "No." In fact, the claimant did have another job working five hours per week (on Sundays) as a security guard at the mall. The claimant's explanation for providing a false answer was that while he understood the employer was liable for medical expenses in connection with his workers' compensation claim, he did not believe that his job as a security guard was in violation of his work restrictions and that it therefore was not any of the employer's business that he had outside employment. Because of the claimant's providing of false information to management, he was discharged.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The employer had a legitimate business reason for verifying for itself what other employment the claimant had and whether or not it complied with the claimant's work restrictions. The claimant's reaffirming his false answer to the employer even after the employer explained its reason for asking shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's April 6, 2012 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of March 11, 2012. This disqualification continues until the claimant has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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