

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ERIC D SHOLANDER
112 ANGLE AVE
COUNCIL BLUFFS IA 51503

STEFFES MOTORS
C/o MICHAEL STEFFES
1308 N 25TH ST
COUNCIL BLUFFS IA 51501-0851

Appeal Number: 04A-UI-11863-DWT
OC: 12/21/03 R: 01
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Steffes Motors (employer) appealed a representative's October 26, 2004 decision (reference 04) that concluded Eric D. Sholander (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 29, 2004. The claimant participated in the hearing. Michael Steffes, the owner, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked about eight years and then quit in March 2003. The employer rehired the claimant in February 2004 as a full-time mechanic.

On September 22, 2004, Steffes sent the claimant home for the day because the employer did not believe the claimant was working, as he should. The employer did not like the claimant's attitude that day. The employer told the claimant to talk to the employer the next day. On September 23, 2004, the claimant called to tell the office manager he was ill and unable to work.

On September 24, the claimant went to work with the intention of working all day. While he was cleaning up his area, the office manager told him pick up his tools. The claimant understood the employer had discharged him. The claimant did not ask why he was discharged. The claimant asked the office manager if he could get his paycheck then or if he should come back later. The office manager gave the claimant his paycheck that day.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits his employment for reasons that qualify him to receive unemployment insurance benefits, or if the employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a.

Even though the employer asserted the office manager did not tell the claimant to pick up his tools and go home again on September 24, the office manager did not testify at the hearing. Therefore, the claimant's testimony must be given more weight than the employer's reliance on hearsay information from a witness who did not participate in the hearing. A preponderance of the evidence establishes the claimant reasonably concluded the employer discharged him and the office manager was merely the employer's messenger. The facts support the conclusion the employer discharged the claimant because the employer did not like the claimant's attitude, the employer sent the claimant home early on September 22 and the claimant did not get along with the employer.

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 may have had compelling business reasons for terminating the claimant's employment. The evidence does not, however, establish that the claimant committed work-connected misconduct. Therefore, as of October 10, 2004, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 26, 2004 decision (reference 04) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of October 10, 2004, 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.

dlw/tjc