

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUZ M STATSER
Claimant

APPEAL NO. 09A-UI-09263-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

**Original Claim: 05/17/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated June 22, 2009, reference 01, that held the claimant was discharged for misconduct on May 7, 2009. A hearing was held on July 14, 2009. The claimant and her interpreter, Ike Rocha, participated. Nikki Bruno, HR Generalist, and Robert Peck, Production Supervisor, participated for the employer. Employer Exhibits One through Four were received as evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds that: The claimant worked full-time employment as a process leader September 26, 2005 to May 5, 2009. The claimant signed a policy statement on March 16, 2009 that she is not to dump any product that has not been scanned or issued to a work order, even if it means the line, process, or department goes down waiting for the product. The policy specifically stated: "If a ticket will not scan I need to drop what I am doing and go get my supervisor or manager involved on the issue right away. If I fail to scan something prior to going to the line and am caught my employment will be terminated."

On May 5, 2009, an employer witness observed the claimant failing to scan tickets before dumping the product. After the employer reviewed the claimant's paperwork, it was determined she violated the employer policy. Since there was a batch of about 31,000 pounds of meat involved, the prospect of improper scanning and dumping could cause contamination, resulting in a substantial financial loss to the employer. When confronted by the employer, the claimant said she had to fix the machine as the reason for her failure to scan.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(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.

The administrative law judge concludes that the employer established misconduct in the discharge of the claimant on May 5, 2009, due to a serious violation of policy.

The employer set the policy of scanning before dumping meat product, and put the claimant on notice that a violation could mean termination from employment. Scanning prior to dumping is a safeguard to avoid any err. The violation is serious due to the financial loss that could occur if the meat is not properly dumped (mixed). The policy allows an employee to stop production and get a supervisor if a problem occurs. While the claimant may have encountered a machine problem, she failed to scan or get a supervisor to help her.

DECISION:

The decision of the representative dated June 22, 2009, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on May 5, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw