

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JIM M VOGEL**  
Claimant

**APPEAL NO. 11A-UI-05583-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EMPLOYER'S SERVICE BUREAU INC**  
Employer

**OC: 04/03/11**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated April 21, 2011, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on May 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Joe Rausenberger participated in the hearing on behalf of the employer. Exhibits One through Seven were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from August 2, 1996, to March 24, 2011. He was working as a laborer at the Nestle-Purina plant. The claimant was informed and understood that under the employer's work rules, insubordination toward supervisor was grounds for termination.

On March 24, 2011, the claimant was on the casing line, which involved pushing boxes through the taping machine. A supervisor noticed that some boxes were not being taped properly. He told the claimant that he needed to keep his eye on the tape. Later, when the supervisor again told the claimant that he needed to make sure the boxes were being taped, the claimant told the supervisor to "fuck off." Later, when he was questioned about his conduct by the first shift coordinator, the claimant admitted he had told the supervisor to fuck off. He told the shift coordinator that he was tired of his "fucking job" and being on the "same fucking line" all the time. The claimant was then suspended and sent home.

The superintendent discharged the claimant on March 28, 2011, based on his insubordinate conduct.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated April 21, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css