

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONALD E RHODES**  
Claimant

**APPEAL NO. 11A-UI-13739-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRIDGESTONE AMERICAS TIRE  
OPERATIONS LLC**  
Employer

**OC: 09/11/11  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(9) – Disciplinary Suspension

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated October 10, 2011, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on November 17, 2011. Claimant participated personally. The employer participated by Mr. Jeffery Higgins and Mr. Jim Funcheon.

**ISSUE:**

The issue in this matter is whether the claimant's unpaid disciplinary suspension was for a disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Donald Rhodes began employment with Bridgestone Americas Tire Operations on February 20, 1995. The claimant most recently worked as a full-time cold feed extruder operator and was paid by the hour. The claimant was suspended from work without pay from September 7, 2011 until October 2, 2011 for an incident that took place on September 7, 2011. On the night of September 7, 2011 Mr. Rhodes backed his forklift unit into another forklift that had been parked behind the claimant's forklift repeatedly. The claimant was aware that the other forklift was present but nonetheless backed into the other forklift causing the vehicles shock watch to be activated temporarily disabling the other forklift.

The company investigated the matter and determined that Mr. Rhodes had violated company safety procedures. The company determined that the claimant knew the other forklift was present but nonetheless repeatedly backed into it in violation of the company's safety rules. A decision was therefore made to suspend Mr. Rhodes without pay rather than to discharge him.

It is the claimant's position that due to concern over other job issues he was distracted on the night in question.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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.

871 IAC 24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

The evidence in the record establishes that the claimant knew that another forklift was parked directly behind him while the claimant was unloading a tire on the night of September 7, 2011. Although the claimant was aware of the other forklift's proximity, Mr. Rhodes nevertheless backed into the other forklift repeatedly temporarily disabling the forklift.

The evidence in the record establishes that the claimant's conduct was contrary to the employer's interests and reasonable standards of behavior that the employer had a right to

expect of its employees under the provisions of the Employment Security Law. Benefits are denied during the period of the claimant's unpaid disciplinary suspension.

**DECISION:**

The representative's decision dated October 10, 2011, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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