

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN A HOTVEDT**  
Claimant

**APPEAL NO. 11A-UI-06688-PT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KSUX/KSCJ BROADCASTING CO**  
Employer

**OC: 04/17/11  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated May 10, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 16, 2011. Employer participated by Scott McKensie (Helke), operations manager and was represented by Jeffrey Peters, corporate counsel. Claimant participated personally. Employer Exhibit One and Claimant's Exhibit A were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: claimant was employed from August 8, 2005 through April 15, 2011. He was discharged from his employment because he refused to come into work on April 9, 2011. Claimant was called to the operation manager's office to discuss this refusal and terminated when claimant indicated that he would not come into work under similar circumstances in the future. In the past when there was severe weather another employee would handle work at the station; that employee was not available on April 9 so claimant was called.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 record indicates that claimant was terminated for refusing to work during severe weather conditions. The employer denies the claimant was terminated which indicates claimant's refusal was not an act of misconduct. The claimant reasonably believed he was terminated and stopped reporting for work. Misconduct has not been established and no disqualification is imposed.

**DECISION:**

The decision of the representative dated May 10, 2011, reference 01, is affirmed. Benefits are allowed, provided claimant is otherwise eligible.

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Ron Pohlman  
Administrative Law Judge

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Decision Dated and Mailed

rrp/pjs