

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYLOR E WHITE
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 22A-UI-02311-JC-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/21/21
Claimant: Appellant (4)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5A – Refusal of COVID-19 vaccination

STATEMENT OF THE CASE:

The claimant/appellant, Tylor E. White, filed an appeal from the December 17, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. A first hearing was scheduled for February 16, 2022 but continued due to agency error. After proper notice, a telephone hearing was conducted on March 4, 2022. Claimant participated personally. Employer/respondent, Tyson Fresh Meats Inc., did not participate. Official notice of the administrative record was taken.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all evidence, the administrative law judge finds: Claimant began employment on April 1, 2013 and last performed work on October 26, 2021 as a full-time automation technician. Claimant took vacation October 27 and 28, 2021. Claimant was discharged from employment on November 1, 2021 for failure to obtain a COVID-19 vaccination.

Employer notified employees that in order to retain employment, employees must receive a COVID-19 vaccination, and that failure to do so, would result in termination of employment. Claimant was issued a warning through a letter mailed to him on October 14, 2021 that his last day of employment would be November 1, 2021 if he did not obtain the vaccine. Employer provided no exemptions or exceptions to the policy, nor was there any other position claimant could perform for employer if he remained unvaccinated.

Claimant notified his employer he did not intend to get vaccinated. Claimant stated he declined to be vaccinated because he did not believe in it. Consequently, on November 1, 2021, he was discharged per employer’s policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge amends the initial decision in favor of the claimant/appellant.

Iowa unemployment insurance law disqualifies individuals who are discharged from employment for misconduct from receiving unemployment insurance benefits. Iowa Code § 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

On October 29, 2021, Gov. Reynolds signed into law House File 902, which among other things amended Iowa Code Chapter 96 to include a new section 96.5A. Section 5 of House File 902 provided that the act would take effect upon enactment.

Iowa Code section 96.5A provides:

Refusal of COVID-19 vaccination – no disqualification.

Notwithstanding any other provision of this chapter to the contrary, an individual who is discharged from employment for refusing to receive a vaccination against COVID-19, as defined in section 686D.2, shall not be disqualified for benefits on account of such discharge.

The undisputed evidence is claimant was discharged from employment with this employer on November 1, 2021 for refusing to receive a COVID-19 vaccination. Iowa law is clear on this issue: claimant is not discharged from unemployment insurance benefits under these circumstances. Therefore, benefits are allowed, provided he is otherwise eligible.

Iowa Code section 96.7(12) further provides:

Discharge for refusal of COVID-19 vaccination – effect on experience and rating – limitation on actions.

If an employee is discharged from employment for refusing to receive a vaccination against COVID-19, as defined in section 686D.2, the contribution rate and unemployment experience of any employer employing the employee, or an employer that previously employed the employee other than the employer that so discharged the employee, shall be unaffected by such discharge. The department shall not impose any penalty on, or take any other action otherwise permitted under this chapter against, any employer employing the employee, or an employer that previously employed the employee other than the employer that so discharged the employee, as a result of such discharge.

Employer's account will not be charged in this case, and any charges shall be absorbed by the fund pursuant to Iowa Code section 96.7(12).

DECISION:

The December 17, 2021 (reference 01) is modified in favor of the claimant/appellant. The claimant's separation is non-disqualifying. Benefits are allowed, provided he is otherwise eligible. Employer's account shall not be charged for any benefits associated with the claim.



Jennifer L. Beckman
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March 22, 2022
Decision Dated and Mailed

jlb/scn