

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMESON PHAN
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 14A-UI-12409-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/09/14
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 2, 2014 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 15, 2015. Claimant participated and was assisted by interpreter Phuong Nguyen. Employer participated through Nikki Bruno, Human Resources Representative.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a production worker through November 7, 2014 when he was discharged. The claimant was discharged for leaving work early without permission on November 5, 2014. He completed his job duties early but did not receive permission from either his team lead or from his supervisor to leave the plant. The claimant punched out at 3:38 p.m. but was to work until 10:00 p.m. The employer regularly and routinely moves employees around so that all areas of production can run smoothly. The claimant knew that even if he did have his job duties completed he was to ask permission to leave. At a meeting with Ms. Bruno and an interpreter on November 7 the claimant admitted that he had not asked anyone for permission to leave early on November 5. The claimant and all of his coworkers had been told repeatedly during meetings that leaving early without permission would lead to discharge.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The claimant knew that he had to have permission to leave work early and had been warned previously. The administrative law judge finds the claimant's admission to the employer on November 7 more credible than his contrary testimony at hearing. Claimant knew that he would be discharged if he left work without permission. Under these circumstances the employer has established sufficient work connected misconduct to rise to the level of disqualifying job-related misconduct. Benefits are denied.

DECISION:

The December 2, 2014 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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