

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD P RODRICK**  
Claimant

**APPEAL NO. 11A-UI-12453-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SCHENKER LOGISTICS INC**  
Employer

**OC: 08/14/11**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Todd P. Rodrick filed a timely appeal from an unemployment insurance decision dated September 9, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held October 17, 2011, with Mr. Rodrick participating. Human Resources Manager Nicki Brick and Night Operations Manager Joel Schenefield participated for the employer, Schenker Logistics. Employer Exhibits 1, 2, 3, 4, 6, and 10 were admitted into evidence.

**ISSUE:**

Was the claimant discharged for misconduct in connection with the employment?

**FINDINGS OF FACT:**

Todd P. Rodrick was employed by Schenker Logistics, Inc. from May 1, 1999, until he was discharged August 17, 2011. He last worked as team lead in the bulk department. Mr. Rodrick worked 12-hour shifts and was entitled to three 15-minute paid breaks per shift. On April 4, 2011, he received a written warning. As part of the warning process, he was reminded of the expectations of a team lead.

Mr. Rodrick worked as acting supervisor in early August while the regular supervisor was on bereavement leave. On August 8, 2011, Mr. Rodrick took smoke breaks totaling 2 hours 36 minutes. On August 12, 2011, he took smoke breaks totaling 1 hour 55 minutes. On August 13, 2011, he took smoke breaks totaling 1 hour 46 minutes. He took approximately 10 smoke breaks each night. When he went on smoke breaks, he took with him the people who were the acting team leads. This removed all management from the warehouse floor.

Following a complaint from a coworker, Night Operations Joel Schenefield reviewed the security tapes, which revealed the extent of Mr. Rodrick's breaks on the evenings in question.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the employment. 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.

The evidence persuades the administrative law judge that Mr. Rodrick took smoke breaks well in excess of his allotted time. Even considering his testimony that he was not held strictly to the 45-minute limit per shift, the evidence establishes a disregard of the employer's interests. Benefits are withheld.

**DECISION:**

The unemployment insurance decision dated September 9, 2011, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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