

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE L MAYFIELD
Claimant

APPEAL NO: 06A-UI-09060-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CUSTOM-PAK INC
Employer

**OC: 04/02/06 R: 04
Claimant: Appellant (2)**

Section 96.5-2- - Discharge

STATEMENT OF THE CASE:

Shane L. Mayfield (claimant) appealed a representative's September 6, 2006 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits because Custom-Pak, Inc. (employer) discharged him for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 29, 2006. The claimant participated in the hearing. Steve Riestroffer appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 26, 2005. The claimant worked as full-time machine operator. During his employment, the claimant received some warnings for attendance issues, but nothing else.

On August 14, a relatively new supervisor, K.McG., noticed the claimant went to the restroom a number of times during his shift. The claimant has a medical condition and it was bothering him during his August 14 shift. As a result of his medical problem, there are times the claimant must use the restroom immediately and cannot wait for scheduled breaks. The supervisor took the claimant to his office and told the claimant he could not go to the restroom until he was on his break. Even though the claimant told him he had a medical condition, the supervisor indicated the claimant could not leave his machine and could only use the restroom on a scheduled break. The claimant became upset because he had no control of when he needed to use the restroom and the supervisor swore at him while they were in his office. The claimant told the supervisor that he. was discriminating against the claimant.

A few minutes after the claimant went back to his machine, the supervisor saw the claimant talking to another operator a few feet from the claimant's machine. The supervisor immediately

went to the claimant and told him that this was the last time he (the supervisor) was going to tell the claimant to stay at his machine. The claimant did not believe this was a reasonable directive because employees were allowed to ask other employees questions. The claimant accused the supervisor of singling him out. A few minutes later, the claimant went to ask the same employee a question about a work-related issue. The claimant did not ask his supervisor his question because the claimant did not want another confrontation with the supervisor. After the supervisor saw the claimant again talking to an employee, who was a few feet from the claimant's machine, the supervisor told the claimant to follow him to his office. The supervisor sent the claimant home early. After the claimant left work the supervisor emailed a statement of the events involving the claimant. The supervisor told his supervisors that he did not want the claimant back.

The employer trusts supervisory employees and believes the veracity of their reports. Even though the claimant had never been involved in a similar incident on August 15, the employer discharged the claimant. The employer concluded the claimant had been insubordinate when he failed to following a supervisor's directive that he could not leave his machine. The employer did not investigate the August 14 incident.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer assumes a supervisor's report is accurate. As a result, the employer does not question employees as to what happens when there is an incident between an employee and a supervisor. This is a business decision that will not be condoned or condemned. As a result of the employer's reliance on the supervisor's August 14 report, the employer established compelling business reasons for discharging the claimant.

For unemployment insurance purposes, however, the employer has the burden to establish that the claimant committed work-connected misconduct. In this case, the claimant's testimony as to what happened during the August 14 shift must be given more weight than the employer's reliance on an email report from an employee who did not testify at the hearing. In the email the supervisor tells the employer he does not want to work with the claimant again.

There are several troublesome issues in this case. First prior to August 14 the employer had not experienced any problems of a similar nature with the claimant. The claimant had worked almost a year for the employer and did not have any problems until a relatively new supervisor took over. The other major issue is the reasonableness of the supervisor's directive that the claimant could not leave his station, even to go to the restroom for medical reasons, does not appear to be a reasonable directive. This is further compounded by the fact it was common practice for employees to ask other employees questions about work-related matters even if this involved stepping away from a machine for a few moments.

Even though the employer may find a supervisor's version of events more credible than an employee's version, if another employee discriminates against employee, the employer has a duty and obligation to investigate this allegation. The employer knew the claimant asserted the supervisor discriminated against him, but the employer did not check into this allegation.

Since the coach's directive on August 14 was not reasonable, the evidence does not establish that the claimant intentionally and substantially disregarded the standard of behavior the employer had a right to expect from him on August 14. The claimant did not commit work-connected misconduct. As of August 13, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's September 6, 2006 decision (reference 04) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of August 13, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account is still subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs