

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MANUEL OCHOA
Claimant

LENNOX INDUSTRIES INC
Employer

APPEAL NO. 14A-UI-03919-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/23/14
Claimant: Appellant (2)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Manuel Ochoa (claimant) appealed an unemployment insurance decision dated April 9, 2014, (reference 02), which held that he was not eligible for unemployment insurance benefits because he was discharged from Lennox Industries, Inc. (employer) for work-related. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 19, 2014. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production worker from May 10, 2002, through March 12, 2014, when he was suspended for an investigation of a fight. He denies fighting and denies that he has received notification of termination of employment. The claimant is waiting for the employer to call him.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined in this matter is whether the claimant's disciplinary suspension and subsequent termination were for disqualifying reasons. When an individual is unemployed as a result of a disciplinary suspension imposed by the employer, the individual is considered to have been discharged and the issue of misconduct must be resolved. See 871 IAC 24.32(9). An individual who was discharged or suspended for misconduct is disqualified from receiving job insurance benefits. See Iowa Code § 96.5-2-a. Misconduct is defined as deliberate actions contrary to the employer's interest. See 871 IAC 24.32(1).

The claimant was suspended on March 12, 2014 for a disciplinary investigation. When misconduct is alleged as the reason for the discharge and subsequent disqualification of benefits, it is incumbent upon the employer to present evidence in support of its allegations. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. 871 IAC 24.32(4). The employer did not participate in the hearing and failed to provide any evidence. The evidence provided by the claimant does not rise to the level of job misconduct as that term is defined in the above stated Administrative Rule. The employer failed to meet its burden. Work-connected misconduct has not been established in this case and benefits are allowed.

DECISION:

The unemployment insurance decision dated April 9, 2014, (reference 02), is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs