

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY M SHEETS

Claimant

APPEAL NO. 12A-UI-04642-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARGILL MEAT SOLUTIONS
CORPORATION**

Employer

OC: 03/25/12

Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision that was dated April 16, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on May 16, 2012. Claimant participated. Participating on behalf of the claimant was Mr. Brian Ulin, Union Business Representative. The employer participated by Mr. Ben Wise, Hiring Supervisor.

ISSUE:

The issue is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Jeremy Sheets was employed by Cargill Meat Solutions Corporation from March 27, 2007 until March 23, 2012 when he was discharged from employment. Mr. Sheets worked as a full-time production worker and was paid by the hour.

Mr. Sheets was discharged for what the employer considered to be a "safety violation" that had occurred two days earlier on approximately March 21, 2012. On that date the claimant and other workers in his department had been assigned additional work duties making it difficult for them to carry out the employer's production expectations. Because of an issue with a forklift driver being available to regularly open and close an entrance door in to a cooler, Mr. Sheets opened the door and secured it open so that employees would have easy entrance into the cooling area to repeatedly obtain meat products. At the end of his shift, Mr. Sheets neglected to close the overhead cooler door.

Although the employer's witness is unaware of the exact circumstances of the incident in question, it is the employer's belief that Mr. Sheets violated a safety rule which subjected him to immediate discharge from employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is not.

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 employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct that may be serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

Allegations of misconduct without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4). When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976).

The claimant was discharged in this matter based upon an unspecified safety violation alleged by the employer. The evidence in the record establishes that the claimant and other department members on the day in question had been assigned substantially more work duties and that the employees were having difficulty securing the needed access and egress from a cooler area that was used to obtain meat products so that they could perform their duties. The claimant denies altering any safety devices but agrees that he placed the overhead door in an open position and left it in that position so that employees could quickly obtain the products repetitively through the work shift. Claimant did not believe that his conduct was a violation of the company's safety policy or that it would jeopardize his employment.

The question before the administrative law judge is not whether the employer had a right to discharge Mr. Sheets for this reason but whether the discharge was disqualifying under the provisions of the Employment Security Law. For the above-stated reasons the administrative law judge concludes that the evidence in the record does not establish sufficient, intentional disqualifying misconduct on the part of the claimant to warrant the denial of unemployment insurance benefits. Benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated April 16, 2012, reference 01, is reversed. Claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs