

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN J HICKS
Claimant

APPEAL NO. 12A-UI-02984-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS
Employer

OC: 02/05/12
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Justin Hicks, filed an appeal from a decision dated March 15, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 9, 2012. The claimant participated on his own behalf. The employer, West Liberty Foods, participated by Human Resources Specialist Alejandra Rojas.

ISSUE:

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

FINDINGS OF FACT:

Justin Hicks was employed by West Liberty Foods from May 10, 2010 until January 26, 2012 as a full-time production worker. In August 2011, he and a co-worker met with management to request they be separated because they were not getting along. This was done for two weeks and then they were put back on the same line.

On January 16, 2012, they got involved in a verbal dispute and Mr. Hicks threw a piece of meat at the co-worker. The supervisor witnessed this and it was reported to human resources. The parties were suspended on January 17, 2012, pending an investigation. Witnesses were interviewed and the report was then referred to the corporate human resources manager for a decision. It was determined the claimant had broken the rule against "horseplay." The employer considers this to be a safety rule, as that line works with cutting machines and horseplay increases the possibility of injuries to employees.

Corporate Human Resources Manager Gene Spiesz notified the claimant hr was discharged on January 26, 2012.

REASONING AND CONCLUSIONS OF LAW:

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 claimant was aware of the policy prohibiting horseplay. Nonetheless, he willfully violated the policy by throwing a piece of meat at a co-worker during a dispute. Whether or not he was angry at the co-worker, the claimant had other options to deal with the problem rather than throwing things. The employer has the obligation to provide a safe and harassment-free work environment for all employees and the claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 15, 2012, reference 01, is affirmed. Justin Hicks is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw