

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIN N SALAZAR
Claimant

APPEAL NO. 13A-UI-05712-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 04/14/13
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the May 2, 2013 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 19, 2013. Claimant responded to the hearing notice instructions but was not available at the number provided when the hearing was called and did not participate. Employer participated through assistant human resources manager Terry Vrieze. Employer's Exhibits 1 through 4 were received.

ISSUE:

Was the claimant discharged for disqualifying job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a production worker and was separated from employment on March 8, 2013. His last day of work was January 31, 2013 because of a non-work-related medical issue. The last doctor's note provided to the employer said he was to return to work on February 8, 2013. No medical information was provided thereafter. He called in every day but the separation was because of lack of documentation requested for the absence between February 8 and February 28, 2013. The employer gave him yet another week beyond February 28 until March 8, 2013 to provide the documentation before termination, but none was provided. (Employer's Exhibit 4)

Since no benefits were paid for weeks claimed, no overpayment is established.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment due to job-related misconduct.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990).

Employer has presented substantial and credible evidence that claimant failed to provide required medical documentation for his absence after February 28, 2013 after having been warned. This is disqualifying misconduct. Benefits are denied.

DECISION:

The May 2, 2013 (reference 01) decision is reversed. Claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Since no benefits were paid for weeks claimed, no overpayment is established.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs