

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTIAN E DETTBARN**  
Claimant

**APPEAL NO: 06A-UI-08582-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LEADING EDGE PORK LLC**  
Employer

**OC: 07/09/06 R: 03  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated August 3, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on September 12, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Karen Robinson participated in the hearing on behalf of the employer with witnesses, Wayne Peugh, Mark Short and Brian Sherman.

**ISSUES:**

Was the claimant discharged for work-connected misconduct?

Was he overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant worked full-time as a manager at the employer's hog facility in Clarence, Iowa, from April 18, 2004, to July 13, 2006. The claimant was hired as the manager of the facility, but because of concerns about production issues and his harsh handling of employees, the employer made him the co-manager in charge of farrowing while another co-manager was put in charge of breeding in November 2005.

In April 2006, the claimant was warned about his job performance. Specifically, he was warned about undermining the other co-manager's authority, declining farrowing numbers, not using prescribed medication, inadequate disinfection techniques, inaccurate mortality record-keeping and poor facility maintenance.

At the end of June 2006, a new employee complained to the employer about the claimant's practices including his disobeying the instructions from the veterinarian to give sows a vaccination and inaccurately reporting litter mortality figures. He told the employee it was not necessary to vaccinate the sows because the disease for which the vaccination was given was

not a problem. The employer investigated the situation and determined the complaints were true and in addition many of the problems for which the claimant was warned in April continued. As a result of this conduct and the productivity of the unit, the claimant was discharged on July 13, 2006.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 9, 2006. The claimant filed for and received a total of \$3,123.00 in unemployment insurance benefits for the weeks between July 9 and September 16, 2006.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's continuing violation of the warning he had been given about failing to administer prescribed medication was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to

expect of the claimant. This by itself would be enough to disqualify the claimant, but in addition, the claimant continued to neglect to keep proper records of baby pig mortality and failed to carry out required facility maintenance, which he had been warned about in April. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$3,123.00 in benefits for the weeks between July 9 and September 16, 2006.

**DECISION:**

The unemployment insurance decision dated August 3, 2006, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$3,123.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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