

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS E LUTTENEGGER
Claimant

APPEAL NO. 09A-UI-06453-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILLARD REFRIGERATED SERVICES INC
Employer

OC: 03/29/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 14, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on May 26, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Julie Banks. Ryan Axman participated in the hearing on behalf of the employer with a witness, Randy Willits.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as an inventory manager from October 17, 2005, to March 27, 2009. He was informed and understood that under the employer's work rules, falsification of documents was grounds for termination.

On March 25, 2009, the claimant submitted to his supervisor an inventory count of the pallets of odd slice meat products. His inventory clerk had conducted an inventory of the pallets the night before and found no discrepancies. Based on that, the claimant had indicated on the document that there were no problems with the inventory. The claimant did not believe that he had to duplicate an inventory already done by the clerk.

Later, an inventory count was done by another supervisor and a five-case discrepancy was discovered.

The employer discharged the claimant on March 27, 2009, because the employer believed the claimant had falsified the case count inventory sheet when he wrote no problem on it.

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.

The law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. I believe the claimant's testimony that there was no written or verbal instruction given to him that he had to recount all the pallets of odd slice products every day.

DECISION:

The unemployment insurance decision dated April 14, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css