

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AHMED IBRAHIM
Claimant

APPEAL NO. 08A-UI-01519-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**INNOVATIVE INJECTION
TECHNOLOGIES INC**
Employer

OC: 01/20/08 R: 02
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Ahmed Ibrahim filed an appeal from a representative's decision dated February 12, 2008, reference 01, which denied benefits based on his separation from Innovative Injection Technologies, Inc. (IIT). After due notice was issued, a hearing was held on March 17, 2008 in Des Moines, Iowa. Mr. Ibrahim participated personally and was represented by Laura Jontz, Attorney at Law. The employer participated by Lisa Buzzard, Human Resources Manager; Mike Jingst, Production Manager; and Tina Esquivel, Supervisor. Naima Dzferegis participated as the interpreter. The hearing was recessed and concluded by telephone on March 26, 2008 with the same parties participating, except for Ms. Esquivel. Exhibits One through Seven were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Ibrahim was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Ibrahim was employed by IIT from August 28, 2006 until January 21, 2008. He was employed full time as a machine operator. He was discharged based on a report that he threatened another employee, David Casillas.

On January 21, Mr. Ibrahim requested that Mr. Casillas, a material handler, bring additional materials to him where he was working on machines number 31 and 34. Mr. Ibrahim became upset when Mr. Casillas failed to bring the containers as fast as he wanted. Mr. Ibrahim also paged for his supervisor but she did not respond to his pages. When Mr. Casillas did bring the materials, Mr. Ibrahim was still upset with him. At least two other employees saw him chasing Mr. Casillas with the box cutter used in his work. The others reported that Mr. Ibrahim said either "fuck you" or "I'll kill you" to Mr. Casillas. As a result of the incident, Mr. Ibrahim was discharged.

Mr. Ibrahim received a written warning on June 20, 2007 after an altercation of some sort with a coworker. The specifics of what occurred are unknown. The warning advised that violence or threats of violence would not be tolerated. Mr. Ibrahim was advised at that time that he should walk away from situations and seek out a supervisor when conflicts arose.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 32 N.W.2d 6 (Iowa 1982). Mr. Ibrahim was discharged for threatening a coworker on January 21, 2008. Given his testimony concerning having to wait for Mr. Casillas to bring him containers, the administrative law judge concludes that, more likely than not, he was upset or angry with Mr. Casillas.

Two of Mr. Ibrahim's coworkers indicated that he was chasing Mr. Casillas with the box cutters. The administrative law judge appreciates that Mr. Ibrahim used the box cutters in the normal course of his work duties. However, it would seem that his coworkers would be able to tell if he was using the cutters in the manner he usually did or whether he was chasing Mr. Casillas with them. Since there were only nine feet between the two machines he was operating, the administrative law judge is not inclined to believe that Mr. Ibrahim was running because he had to monitor two different machines spaced widely apart. The fact that he was angry with Mr. Casillas adds some degree of credibility to the reports from others that he was chasing Mr. Casillas with the box cutters.

The coworkers who witnessed the incident could not confirm that Mr. Ibrahim said he would kill Mr. Casillas. However, the fact that he was chasing him with a tool that could be used as a weapon is sufficient to establish a threat of harm. Mr. Ibrahim had been warned about threats of violence in June of 2007. Although the specifics of the incident that prompted the warning are unknown, the warning itself did serve to put Mr. Ibrahim on notice that violence or threats of violence in the workplace would not be tolerated. His conduct on January 21 was clearly contrary to the type of behavior he was warned against in June.

An employer has a vested interest in maintaining a violence-free workplace. Mr. Ibrahim's conduct constituted a substantial disregard of the employer's interests as his actions could have resulted in serious injury to himself or Mr. Casillas, injuries for which the employer had potential liability. For the reasons stated herein, the administrative law judge concludes that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated February 12, 2008, reference 01, is hereby affirmed. Mr. Ibrahim was discharged by IIT for misconduct in connection with his employment. Benefits

are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs