

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL DUNN**  
Claimant

**APPEAL NO. 07A-UI-01307-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOC SERVICES LLC**  
Employer

**OC: 01/07/07 R: 04  
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 1, 2007, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 19, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a line cook from November 23, 2004, to January 5, 2007. On January 3, 2007, he was scheduled to work from 2:00 p.m. until 10:00 p.m. Business was slow, and the claimant was in charge of closing down the area where he worked. He shut off the skillet at about 9:00 p.m. so that it could be cleaned. Later, a customer ordered crab legs, which would ordinarily be prepared in the skillet. The claimant used the steamer to prepare the crab legs, but the steamer took longer to cook the crab legs than the skillet would have. This delayed service to the customer by about 15 minutes.

The employer discharged the claimant for shutting off the skillet early, which caused the meal to be served late. The claimant had received a favorable review and a raise in December 2006. He had not had any recent discipline or been informed that his job was in jeopardy.

**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.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. At most, the evidence establishes a good faith error in judgment or isolated negligence by the claimant in shutting off the skillet early.

**DECISION:**

The unemployment insurance decision dated February 1, 2007, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs