

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID S NEMMERS**  
Claimant

**APPEAL NO: 14A-UI-10007-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BERTCH CABINET MFG INC**  
Employer

**OC: 08/24/14**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's September 17, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate at the October 15 hearing. Mitzi Tann, the human resource director, Tracy Bertch and Robert Meyerhoff-Schoof, a department leader, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the employer discharged the claimant for disqualifying reasons.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The employer hired the claimant in May 2014, to work as a full-time employee.

The employer has an industrial trash compactor. There are yellow safety bars over the top of the compactor so no one can fall into the compactor. If a person is inside the trash compactor when it was on, the person could be crushed to death or suffer significant injuries.

On August 18, 2014, Meyerhoff-Schoof heard a noise in the trash compactor. He discovered the claimant inside the trash compactor. Meyerhoff-Schoof immediately told the claimant to get out of the trash compactor. After the claimant was out, he indicated he had gone in the trash compactor to look for a piece of paper, an assembly sheet. The claimant removed the safety bars to get inside the compactor. After the claimant was out of the trash compactor, the employer turned on the compactor to show the claimant how seriously he could have been injured if he had been in the trash compactor and someone had turned it on.

The employer discharged the claimant on August 19 for safety violations because he intentionally removed the safety bars on the trash compactor and then went inside the compactor for no logical reason.

The claimant established a claim for benefits during the week of August 24, 2014. The employer is not one of his base period employers. The claimant has not filed any weekly claims.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's decision to remove the safety bars on the compactor so he could go inside amounts to a deliberate violation and disregard of the standard of behavior the employer had a right to expect from him. The claimant committed work-connected misconduct on August 18, 2014. As of August 24, 2014, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's September 17, 2014 determination (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of August 24, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs