

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKY R SHAW
Claimant

APPEAL NO. 11A-UI-12284-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLUE RIDGE PAPER PRODUCTS INC
Employer

**OC: 07/31/11
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct
871 IAC 24.32(9) – Disciplinary Suspension

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 1, 2011, reference 01, that held he was placed on disciplinary suspension on July 28, 2011, and which denied benefits. A telephone hearing was held on October 11, 2011. The claimant did not participate. Megan Danner, HR generalist, participated for the employer.

ISSUE:

Whether the claimant was suspended for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds: The claimant began employment on September 14, 1970, and last worked as a full-time knife worker on July 28, 2011. He was caught falsifying a record that he performed a template check when he later admitted he did not. He was placed on a disciplinary suspension from July 28 to August 4, and he returned to work on August 5 under a conditional employment agreement.

Claimant was discharged on September 7, and the department issued a decision on that employment separation issue on October 6, which is not involved in this matter.

Claimant was not available when called for the hearing.

REASONING AND CONCLUSIONS OF 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.

871 IAC 24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

The administrative law judge concludes the employer has established that the claimant was placed on a disciplinary suspension for misconduct in connection with employment on July 28, 2011.

The claimant falsified a work record that he made a template check knowing he had not done so. The employer suspended him for one week and returned him to work on August 5. The claimant is not eligible for benefits for this reason, as the offense constitutes job-disqualifying misconduct.

DECISION:

The department decision dated September 1, 2011, reference 01, is affirmed. The claimant was placed on a disciplinary suspension for misconduct on July 28, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw