

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHUC D HA
Claimant

APPEAL NO. 13A-UI-09666-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAHR BEVERAGE INC
Employer

OC: 04/21/13
Claimant: Respondent (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 20, 2013, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on September 25, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Jane Fahr participated in the hearing on behalf of the employer. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from May 31, 2013, to July 31, 2013. He was hired as a warehouse worker but was considered for a management position based on the employment history he reported on his application and resume.

The claimant misrepresented his employment history when he listed another employer, rather than his most recent employer, as his employer from March 2006 to May 2013. In fact, the claimant had been discharged from his most recent employment due to violation of company rules. Considering the fact that he was being considered for a management position, he would likely not been hired if he had disclosed his employment history accurately.

When the employer did not receive a response to a reference request made to the employer the claimant had listed as his most recent employer, the vice president of human resources, Jane Fahr, discovered that employer was not even in business until 2011. In July 2013, Fahr then made a reference request to the claimant's actual last employer and discovered that the claimant misrepresented his employment history and reason for his separation from employment. She received this information on July 25, 2013.

On July 31, 2013, the employer discharged the claimant for misrepresenting his employment history.

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 unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 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).

The claimant's conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

No benefits have been paid to the claimant due to another disqualifying separation.

DECISION:

The unemployment insurance decision dated August 20, 2013, reference 02, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs