

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD L FISHER
Claimant

APPEAL NO. 07A-UI-02799-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN SPIRIT CORPORATION
Employer

**OC: 02/11/07 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Ronald Fisher filed an appeal from a representative's decision dated March 8, 2007, reference 01, which denied benefits based on his separation from American Spirit Corporation. After due notice was issued, a hearing was held by telephone on April 5, 2007. Mr. Fisher participated personally and offered additional testimony from Kevin Eggleston. The employer participated by Dave Weeks, Human Resources; Mike Love, Shift Supervisor; and Tom Senn, Plant Superintendent.

ISSUE:

At issue in this matter is whether Mr. Fisher 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. Fisher was employed by American Spirit Corporation from July 5, 2006 until February 14, 2007. He was employed full time as a press helper. He was discharged for insubordination.

On February 14, Mr. Fisher was shown by Randy Sanford how to set up a machine. The machine was set up incorrectly and Mr. Sanford called Mike Love over while the matter was discussed with Mr. Fisher. Mr. Fisher became upset and said, "I'm not doing this anymore. I don't have to listen to you." Mr. Love asked him to go to the office. Mr. Fisher said he did not have to do what Mr. Love said and walked away. He also said Mr. Love could not fire him and that the employer would have to call the police to remove him.

Mr. Fisher had had other verbal outbursts while in the employment. He became upset on December 14 when he was questioned regarding the count on a load. He was upset because he felt he was being questioned as to whether he performed his job. He displayed anger by raising his voice and slamming things around. On December 22, he dumped a load of paper and was told by Mr. Sanford to slow down. Mr. Fisher became angry and was arguing with Mr. Sanford. He was warned about his temper in a January 5 evaluation.

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, 321 N.W.2d 6 (Iowa 1982). Mr. Fisher was discharged for insubordination. He was insubordinate towards his supervisor, Mr. Love, on February 14. He refused to go to the office as directed and told Mr. Love that he did not have to do what he said and walked away. The employer had the right to expect that he would follow all reasonable directives of his supervisor.

Mr. Fisher had been warned about his temper in his evaluation on January 5. In spite of the warning, he lost his temper after he failed to set up a machine correctly and then refused to go to the office with his supervisor to discuss his conduct. Given his history and the warning he received on January 5, the administrative law judge concludes that his conduct of February 14 constituted a substantial disregard of the standards of behavior the employer had the right to expect. Although he may have had problems with Mr. Sanford, those problems would not justify his insubordinate attitude towards Mr. Love. For the reasons cited herein, it is concluded that misconduct has been established. Accordingly, benefits are denied.

DECISION:

The representative's decision dated March 8, 2007, reference 01, is hereby affirmed. Mr. Fisher was discharged 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/css