

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA C GRISHAM
Claimant

APPEAL NO: 13A-UI-02355-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CNH AMERICA LLC
Employer

**OC: 01/20/13
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's February 25, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. Neither the claimant nor the employer responded to the hearing notice or participated in the hearing. Based on the administrative record and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in May 2011. He worked full time as a production employee. During the claimant's last six months of employment, he received three written warnings. He received one warning for being on his cell phone. He received another warning for being off the line without permission. He received a suspension for being off line, on his cell phone and preparing food before a break. The last write-up the claimant received occurred when he was in the bathroom and he could not find a supervisor before he went to the bathroom.

The employer discharged the claimant on January 26, 2013, for a buildup of disciplinary actions.

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 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 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).

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).

Neither party participated in the hearing. The record does not establish that the claimant committed a current act of work-connected misconduct. Therefore, the claimant is qualified to receive to benefits as of January 20, 2013.

DECISION:

The representative's February 25, 2013 determination (reference 01) is reversed. The administrative record does not establish that the claimant committed a current act of work-connected misconduct. Therefore, as of January 20, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs