

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time cabinet-maker from November 22, 2004 through July 19, 2005. He was discharged for low productivity, a negative attitude, and repeated work mistakes that he failed to disclose to the employer. When the claimant started his employment, he was one of the employer's best workers and received a raise before his probation period was completed. He was only the second person to achieve that in 17 years. For some reason, that changed and the claimant's work performance declined. He was issued a verbal warning on March 22, 2005 because he bored the door hinges on the wrong side of a door. This was a job that he did on a daily basis and it was hard to understand how the claimant could do it backwards.

He received another warning on April 4, 2005, after making the same mistake but failing to tell the employer. Instead, he assembled the door onto the cabinet and wrapped it up. The cabinet was delivered to the customer, which is when the mistake was discovered. The employer worked with the claimant on April 20, 2005, teaching him again how to cut the frames, but right after the instruction, the claimant continued to do it the wrong way. Another warning was issued on April 25, 2005 about the claimant's low productivity and his negative attitude. He did not seem to care that he was not producing at the level of which he was capable. On May 13, 2005, he again bored the doors incorrectly, but this was done on a door that was special ordered and took approximately ten days to deliver. The employer issued the claimant a written warning and advised him he had to increase his productivity, quit making mistakes, and pay attention to his work. Each time the claimant was warned, he placed the blame on someone else.

The claimant was in a motorcycle accident on May 24, 2005 and did not return to work until June 29, 2005. He had difficulty working at his regular job when he returned, so the employer tried placing him in different positions. The claimant ended up in the sanding and painting department, since that seemed easiest for him, but his work performance was no better than before his accident. The employer saw the claimant walking around a lot and talking to other employees while out of his work area. His work performance on July 18, 2005 demonstrated that his productivity was not going to improve. The claimant took three hours to sand a three-foot area on a kitchen island. Later that day, his supervisor pointed out to him that the doors on which he was working were not going to match, and the claimant said not to tell the owner because he did not want to do it again.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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). He was discharged for low productivity, a negative attitude, and repeated work mistakes. The claimant had demonstrated he was capable of excellent work and his poor work product was only a result of his lack of attention. He was given numerous warnings and demonstrated that he was not going to improve. 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 and benefits are denied.

DECISION:

The unemployment insurance decision dated August 25, 2005, reference 05, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sdb/kjw