

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL L DOUBLEDAY
Claimant

APPEAL NO. 11A-UI-09776-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PAPETTI'S OF IOWA
Employer

**OC: 06/19/11
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 15, 2011, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on August 18, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Rod Maharry, attorney at law. Julie participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer from April 20, 2007, to June 14, 2011. In October 2008, the claimant was promoted to the position of hazard analysis critical control point (HACCP) coordinator. The employer is an egg production facility and the claimant's duties are part of the quality control process.

Whenever some change is made in a product or process, the claimant was responsible for routing a specification review to managers. On April 1, 2011, the claimant received a written counseling for not promptly sending out a specification review. This was not a deliberate delay but was something the claimant had initially missed.

The quality technicians are required to regularly swab different areas on the production line to check the cleanliness of the line. There are required to complete Department of Agriculture documents and record the date, the time, the test location, the reading, and check "A" for acceptable or "U" for unacceptable. The claimant is supposed to review the documents the next day for completeness. The claimant reviews over 100 documents per day. On April 20, 2011, the claimant received a written warning for not noticing that a quality technician had failed to check "A" on the USDA form.

On May 31, 2011, the claimant received another specification review to route to managers. The claimant's supervisor was on vacation for two weeks and he was responsible for part of her job and his own job, along with filling in for quality technician when necessary. He had told another

supervisor that the workload was causing him to get behind on his work, but no help was offered the claimant. The claimant was again late in routing the specification review to the managers. When this was discovered on June 19, 2011, the employer discharged the claimant for the mistakes made in April and June 2011.

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 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 substantial and 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. The final conduct was at most negligence with mitigating circumstances that does not rise to the level of willful misconduct in culpability because the claimant's workload had increased due to his supervisor's vacation. In addition, he had brought this to the attention of management.

DECISION:

The unemployment insurance decision dated July 15, 2011, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs