

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAYMOND A WRUBEL
Claimant

APPEAL NO: 09A-UI-06203-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

OC: 03/01/09
Claimant: Respondent (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Target Corporation (employer) appealed a representative's April 10, 2009 decision (reference 03) that concluded Raymond A. Wrubel (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 7, 2009. The claimant participated in the hearing with his attorney, Katie Sandre. Beth Fetzer and Blair Winkler appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on November 1, 2007. The claimant worked as a full-time float team member on the night shift.

The employer noticed problems with the way the claimant stacked pallets, zoned the grocery department and how slowly the claimant performed his work almost immediately. When the claimant did not make the necessary improvement, the employer started documenting counseling session beginning as of May 17, 2008. The employer noticed the claimant tried to improve his work performance, but was unable to satisfactorily work fast enough to complete his job duties.

On February 20, 2009, the employer discharged the claimant because he could not meet the employer's speed requirements even though the employer recognized that he tried.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The facts establish that even though the claimant worked to the best of his ability, he was unable to work fast enough to satisfy the employer's speed requirement. The claimant did not commit work-connected misconduct. As of March 1, 2009, the claimant is qualified to receive benefits.

DECISION:

The representative's April 10, 2009 decision (reference 03) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of March 1, 2009, the claimant is qualified to receive benefits, provide he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css