

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CRAIG BALE**  
Claimant

**APPEAL NO. 08A-UI-10364-B**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA SELECT FARMS INC**  
Employer

**OC: 10/12/08 R: 02  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Craig Bale (claimant) appealed an unemployment insurance decision dated October 31, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Iowa Select Farms, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Mason City, Iowa, on November 17, 2008. The claimant participated in the hearing. The employer participated through Cathy Rieken, Human Resources. Employer's Exhibit One was admitted into evidence. 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:**

The issue is whether the employer discharged the claimant for work-related misconduct?

**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 farm technician from December 7, 2007 through October 10, 2008, when he was discharged for breaking the employer's bio-security policy. He signed an acknowledgement at the time of hire that bio-security was important for the overall health of the herd. Since Iowa Select Farms, Inc. (ISF) has a substantial investment in facilities, equipment, and livestock, it is in its best interest to maintain the highest health status possible in all its herds. This not only prevents losses from catastrophic diseases, but also prevents losses in production due to the presence of low level diseases. Employees are warned that a breach of the bio-security policy is taken very seriously and could result in disciplinary action up to termination. The entire bio-security policy is explained to the employees and is available for review.

The specific details of the policy are explained to employees on their first day of employment. Basically, the policy is that employees and all visitors must shower before going inside the facility to the production area and after leaving the production area going outside. After showering on the production side of the facility, employees and visitors must wear the ISF

undergarments, blue coveralls and boots. When employees leave the production area to go outside, showers again must be taken and all ISF clothing is to be left on the clean side. No ISF clothing is allowed to be taken to the outside area or dirty side. Employees who have work to do outside are required to put their own clothing back on but will also be given boots and white coveralls to protect their clothing. Once the employee goes back to the production area, the same process must be completed and the white coveralls are thrown away. No outside or dirty clothes are to be taken to the clean side. The employer did not use the different-colored coveralls until approximately the last three months of the claimant's employment. Prior to that, the same policy was followed but violations could not be as easily detected.

On approximately October 7, 2008, the claimant wore ISF clothes outside to clean the incinerator, which is where diseased hogs are burned. The claimant admitted he wore blue coveralls to perform his outside work but said he wore white coveralls over the blue ones. It was initially understood that he was claiming there were blue coveralls on the dirty side, but he later admitted he threw the blue coveralls from the clean side to the dirty side. He claimed he wore the blue coveralls outside because they were warmer than his own clothes but could offer no explanation as to why his own clothes and a coat would not have been warmer than the blue coveralls. There was no reasonable explanation as to why he violated this policy. When his supervisor saw what he had done, the claimant was told to throw away both sets of coveralls. He was discharged on October 10, 2008.

#### **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 § 96.5-2-a.

Iowa Code § 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.

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 claimant was discharged for violating the employer's bio-security policy. He denies any wrongdoing, but there is no dispute he acted in violation of policy. The claimant's actions show a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. 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 October 31, 2008, reference 01, 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.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/kjw