

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMIAH L SPOONER
Claimant

APPEAL NO. 11A-UI-11195-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTERSTATE POWER & LIGHT COMPANY
Employer

OC: 07/10/11
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a – Suspension

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's August 16, 2011 determination (reference 01) that held the claimant eligible to receive benefits because he was on a short-term layoff. The claimant participated in the hearing. Amy Cralam, attorney at law, represented the employer. Erin Miller, John Watts, and Greg Hudson appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted into the record. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant was suspended for disqualifying reasons.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in June 2002. He worked full-time as a mechanical maintenance apprentice. The claimant and M.B. did not get along. As a result of problems between them, the employer talked to both employees in mid-January 2011. The employer talked to the claimant about how to handle disagreements between him and M.B. The employer reminded the claimant about the employer's harassment and progressive disciplinary policies. (Employer Exhibit One.)

On June 30, M.B. reported the claimant was driving a company vehicle too fast. Watts talked to the claimant about the complaint. The claimant did not believe he had been driving too fast and was upset after learning who made the complaint. The claimant made a comment that he understood he could not do anything about M.B. at work, but could go to M.B.'s home after work. When Watt's heard this comment, he told the claimant to go home, have a beer, and forget about the incident.

The claimant went to M.B.'s home after work on June 30, 2011. M.B. did not answer his door and the claimant left. M.B., however, reported that the claimant had come to his house and that he felt intimidated by the claimant. The employer learned that after meeting with Watts the claimant made comments to co-workers on June 30 that he would go to M.B.'s home and "beat the hell out of him." When the employer talked to the claimant, he admitted he went to M.B.'s home but said only wanted to talk to him and try to get the issues between the two of them resolved.

The employer gave the claimant a 30-day suspension for insubordination, failing to follow Watts' directions and for his retaliatory conduct. The employer suspended the claimant with pay July 6 through 8 and without pay July 11 through August 20. The claimant returned to work on August 22.

The claimant established a claim for benefits during the week of July 10, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges or suspended him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The facts do not establish the claimant laid off, instead, he was suspended from working for 30 days.

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).

Since the claimant and M.B. did not get along and Watts told the claimant to go home, have a beer, and forget about the incident after the claimant made a comment about going to M.B.'s home, the claimant knew the employer did not want him to confront M.B., even after work hours. Even if the claimant had calmed down by the time he went to M.B.'s home and only intended to talk to him, without a third party mediating the conversation, the claimant's assertion that he wanted to resolve the situation between the two of them by talking was not realistic.

The evidence establishes the claimant failed to follow Watts' instructions. When the claimant went to M.B.'s home, it is a reasonable conclusion that M.B. felt intimidated. The claimant's decision to go to M.B.'s home after the employer specifically told him to go home and forget about the incident amounts to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from the claimant. The claimant committed work-connected misconduct. Therefore, he is not qualified to receive benefits as of July 10, 2011.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he received since July 10 will be remanded to the Claims Section to determine.

DECISION:

The representative's August 16, 2011 determination (reference 01) is reversed. The claimant was not laid off. Instead, he was suspended for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of July 10, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw