

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SALVADOR TORRES-FRANCO
Claimant

APPEAL NO. 12A-UI-01246-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 12/18/11
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Salvador Torres-Franco appealed an unemployment insurance decision dated January 27, 2012, reference 01, that concluded he was discharged for misconduct. A telephone hearing was held on March 7, 2012. The parties were properly notified about the hearing. Mr. Torres-Franco participated in the hearing with the assistance of an interpreter, Patricia Vargas-Verploeg. Aureliano Diaz participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was Mr. Torres-Franco discharged for work-connected misconduct?

FINDINGS OF FACT:

Mr. Torres-Franco worked full-time for the employer as a first-shift janitor from March 24, 2008, to December 15, 2011. He was informed and understood that under the employer's work rules, employees were not allowed to leave work before the end of their shift without authorization from a supervisor.

At about 1:50 p.m. on December 15, Mr. Torres-Franco met with the human resources manager and his supervisor. They gave the claimant a documented verbal warning for issues with his cleaning job performance. After the meeting, Mr. Torres-Franco would have had about 1.5 hours left on his shift. He left work without authorization from a supervisor in violation of the employer's rules. He left because he was upset by the warning and knew that there would be lots of trash to clean up if he returned to work.

Mr. Torres-Franco reported to work on December 15, 2011, and was suspended. On December 22, 2012, he was discharged for leaving work without authorization.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Mr. Torres-Franco 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).

Mr. Torres-Franco's violation of a known work rule 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.

DECISION:

The unemployment insurance decision dated January 27, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw