

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

RALPH MASON  
40 S 3<sup>RD</sup> ST  
HAMILTON IL 62341 1309

MATRIX METALS LLC  
PO BOX 6005  
KEOKUK IA 52632

Appeal Number: 06A-UI-01441-DWT  
OC: 01/08/06 R: 04  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge  
Section 96.3-7- Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Matrix Metals (employer) appealed a representative's January 30, 2006 decision (reference 01) that concluded Ralph Mason (claimant) was qualified to receive unemployment insurance 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 February 22, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Matt Brown, the human resource director, 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.

ISSUES:

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

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working as a temporary employee on August 30, 2004. The employer hired him as an employee on October 2, 2004. The claimant worked as a full-time welder.

During his employment, the claimant received two written warning, April 6 and June 9, 2005. The claimant received the warnings for horseplay and using profanity at work. Prior to December 22, 2005, the claimant's job was in jeopardy for attendance issues.

On December 22, the claimant approached three co-workers and berated them for not doing their work. The claimant also made comments about going outside to settle any problems the co-worker had with the claimant. One co-worker the claimant belittled engaged in a verbal confrontation with the claimant. The verbal confrontation escalated to the point where the claimant and a co-worker started pushing and shoving each other on the work floor. When the foundry superintendent came, he believed the two men were about throw punches at each other and separated them. Both men were immediately suspended pending discharge.

The only information the employer received was that the claimant started the confrontation. In early January 2006, the employer discharged the claimant. After the employer discharged the claimant, the claimant provided information that the other person started the confrontation and he had not said anything because the union told him not to say anything so both he and the co-worker would get re-instated. Based on information provided to the employer, the co-worker was reinstated but not the claimant.

The claimant established a claim for unemployment insurance benefits during the week of January 8, 2006. The claimant filed claims for the weeks ending January 14 through February 18, 2006. He received a total of \$1,944.00 in benefits for these weeks.

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 the claimant initiated the December 22, 2005 confrontation between himself and his co-workers. The claimant knew or should have known the employer did not permit fighting at work. Based on information the employer learned between December 22 and early

January, the employer discharged the claimant because he intentionally and substantially disregarded the standard of behavior the employer has a right to expect from an employee. The claimant's assertion that the union told him to hide certain information, the co-worker started the physical confrontation, from the employer is not supported by the facts. A preponderance of the evidence establishes the employer discharged the claimant for work-connected misconduct. As of January 8, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending January 14 through February 8, 2006. The claimant has been overpaid \$1,944.00 in benefits for these weeks.

DECISION:

The representative's January 30, 2006 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 8, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending January 14 through February 18, 2006. The claimant has been overpaid and must repay \$1,944.00 in benefits he received during these weeks.

dlw/s