

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA M SCHROEDER
Claimant

APPEAL NO: 12A-UI-01268-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

BWS LEASING INC
Employer

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

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 25, 2012, reference 01, that held he was discharged for misconduct on December 14, 2011, and which denied benefits. A telephone hearing was held on February 27, 2012. The claimant did not participate. Jim Fritz, plant manager, participated for the employer. Employer Exhibits A through F was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment as a full-time parts receiving person on July 12, 2010, and last worked for the employer on December 14, 2011. The claimant received an employee handbook that contained the policies of the employer. The claimant knew that he was to provide an accurate time record and he could be terminated for not doing so.

The claimant was late to work six or more minutes on December 14, which is a violation of the employer's tardy policy for someone who is late less than one hour. He e-mailed payroll stating he forgot to punch in so he could be paid from his start time at 7:00 a.m. and not be disciplined. When the employer learned about claimant's attempt to cover up his tardy and provide false information, he was terminated.

Claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 administrative law judge concludes the employer has established that claimant was discharged for misconduct in connection with employment on December 14, 2011, for falsifying his reason for being late and requesting to be paid from his scheduled start time to work.

The claimant knew the employer's policy for providing false information about recording his work time and the penalty for it. He intentionally disregarded the policy by providing false information about his tardy to payroll to cover up his tardy that constitutes job disqualifying misconduct.

DECISION:

The department decision dated January 25, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on December 14, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw