

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

QUENTON D CHADWICK

Claimant

APPEAL NO. 10A-UI-15339-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BECKWITH COMMERCIAL ROOFING INC

Employer

OC: 10/03/10

Claimant: Appellant (2)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Quenton Chadwick, filed an appeal from a decision dated November 5, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 20, 2010. The claimant participated on his own behalf. The employer, Beckwith Commercial Roofing, Inc. (Beckwith), did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Quenton Chadwick was employed by Beckwith from July until September 30, 2010 as a full-time roofer. On September 30, 2010, the claimant and other roofers were working on a commercial building. The ladder was secured to the roof as required by safety procedures. The ladder had to be moved in order for the roofers to work on the area where it was secured. The lead person told the claimant to untie the ladder, which he did.

After the ladder was unsecured, a wind gust blew it down so that it landed flat on the ground. The lead person decided to have the claimant, who was the lightest, lowered down by herself and the other roofer. He was lowered to an air conditioning unit on the ground and then stepped down to retrieve the ladder. The ladder was re-positioned and secured and the crew returned to work.

The client notified Supervisor Dan Detterman about the incident and another employee, who had been in the area, also reported the incident. Two hours after the incident occurred the supervisor came to the job site where he discharged Mr. Chadwick. The claimant tried to justify his actions by saying the lead person had told him to unsecure the ladder and had been the one who decided to have him lowered to the ground but the supervisor merely asked the claimant whether he would jump off a bridge if the lead person told him to.

REASONING AND CONCLUSIONS OF LAW:

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 claimant appears to have used exceedingly poor judgment in unsecuring the ladder and then leaving the roof without proper safety precautions. But the claimant was merely following the instructions of his lead person on the job and the employer did not participate to explain whether or not the lead person was likewise discharged for violation of safety rules or what options the claimant may have had to disobey instructions from someone in a supervisory capacity.

Overall the record establishes only one incident of poor judgment on the part of the claimant, which caused the discharge. The record further establishes the poor judgment was merely obeying the orders of his supervisor. Without more evidence the administrative law judge cannot conclude the claimant is guilty of substantial, job-related misconduct sufficient to warrant a denial of unemployment benefits. Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman v. IDJS*, 351 N.W.2d 806 (Iowa App. 1984).

DECISION:

The representative's decision of November 5, 2010, reference 01, is reversed. Quenton Chadwick is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs