

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ADRIAN R MADDOX
Claimant

APPEAL NO. 14R-UI-08113-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERE & CO - DES MOINES WORKS
Employer

OC: 05/11/14
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 3, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 28, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Joshua MacLean participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUES:

Was the claimant suspended for work-connected misconduct?

Was the claimant overpaid unemployment insurance benefits and is repayment of the overpayment required?

Is the employer subject to charge for benefits paid?

FINDINGS OF FACT:

The claimant worked full time for the employer as an assembler from March 2011 to May 12, 2014. He was informed and understood that under the employer's work rules, falsification of information to the employer was grounds for discipline.

On May 12, 2014, the claimant was issued a 30-day disciplinary suspension after he falsely reported that the assembly line where he was working had shut down for 25-30 minutes due to the lack of parts when questioned about the underproduction of the line. The line never ran out of parts or shut down as the claimant alleged. He was suspended for providing false information to management.

The claimant filed for and received a total of \$2,040 in unemployment insurance benefits for the weeks between May 11 to June 14, 2014.

The employer's human resource manager was called for the fact-finding interview held on June 2, 2014, but he was not available when the call was made to his phone number.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant 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).

The rules provide that a disciplinary suspension shall be treated as discharge and the issue of misconduct considered. 871 IAC 24.32(4).

In this case, the claimant's conduct 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.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$2,040 in benefits.

Because the claimant did not receive benefits due to fraud and willful misrepresentation and employer failed to participate in the finding interview, the claimant is not required to repay the overpayment and the employer's account remains subject to charge for the overpaid benefits.

DECISION:

The unemployment insurance decision dated June 3, 2014, reference 01, is reversed. 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. The claimant was overpaid \$2,040 in benefits but is not required to repay the overpayment and the employer's account remains subject to charge for the overpaid benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css