

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL R MEEKS**  
Claimant

**APPEAL NO: 14A-UI-11884-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEERE & CO - DES MOINES WORKS**  
Employer

**OC: 10/19/14**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's November 7, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the December 8 hearing. Dan Terry, the labor relations representative, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2011. The claimant worked as a full-time machine mechanic. The employer's code of conduct informs employee they are not allowed to make malicious or vicious comments about another employee.

During his employment the claimant received a three-day suspension for inappropriate language, a two-week suspension and a thirty-day suspension for making a malicious or vicious comment about an employee, such as calling another employee a snitch bitch.

The claimant and MM had a personality conflict. As a result of some issues between the claimant and MM, during the summer of 2014 the claimant filed a complaint against the employer with the Iowa Civil Rights Commission. The weekend of September 27, MM was electrocuted. He suffered significant major injuries.

On September 29, a supervisor informed employees about the extent of MM's injuries. After learning about MM's injuries, co-workers understood the claimant said something to the effect that it was too bad MM had not died. The claimant understood MM had several amputations, major internal injuries, severely injured muscles and in a great deal of pain as a result of being electrocuted.

On October 6, management learned about the claimant's September 29 comment from several employees. The employer concluded that based on the personality conflict between the two men, the claimant's comment was vicious and malicious. The employer discharged him on October 15 for the reported September 29 comment.

The claimant established a claim for benefits during the week of October 19, 2014. He has filed for and received benefits since October 19.

#### **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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The facts establish the employer had gone through all steps of its disciplinary process with the claimant. The facts also establish the claimant and MM did not get along at work; they had a personality conflict. The employer relied on hearsay evidence (information from witnesses who did not participate at the hearing) to establish what the claimant said about MM on September 29. The claimant's testimony is credible and must be given more weight than the employer's reliance on hearsay information. The claimant's September 29 comment, while may have appeared uncaring, he made the comment out of compassion because MM had been severely injured and was in pain. The facts do not establish the claimant committed work-connected misconduct. As of October 19, 2014, the claimant is qualified to receive benefits.

**DECISION:**

The representative's November 7, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of October 19, 2014, the claimant is qualified to receive unemployment insurance benefits, provided he meets all eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css