

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HAROLD P YOUNG

Claimant

APAC CUSTOMER SERVICES INC

Employer

APPEAL NO: 13A-UI-09831-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/28/13

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 August 23, 2013, reference 01, that held he was discharged for misconduct on July 15, 2013, and benefits are denied. A telephone hearing was held on September 30, 2013. The claimant participated. Turkeesa Newsome, HR Generalist, participated for the employer.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on August 31, 2012, and last worked for the employer as a full-time CSR on June 13, 2013. Claimant requested a medical leave of absence for an insect bite. Although he was not eligible for FMLA, he was eligible for medical leave. The employer requested he provide medical documentation to excuse his absence period.

Claimant was seen at the University of Iowa Hospitals and Clinics on June 15, and he was excused to return to work on June 17. Although claimant claims he was seen at the clinic on June 19, the employer corporate leave team could not verify it with the clinic. The employer reviewed the documents offered by claimant on or about June 26 and it concluded he falsified it in an attempt to excuse his absenteeism and justify his medical leave. The employer terminated claimant on July 22 for falsifying his leave of absence from employment.

Claimant did not offer any medical document from a physician that he had had been seen in a health clinic and treated for an insect bite other than the June 15 visit. He provided no doctor note other than one stating he could return to work on June 17.

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 employer established claimant was discharged for misconduct on July 22, 2013 for falsifying his reason for a leave absence.

The only medical document claimant offered to the department is the doctor note he was seen on June 15, 2013, excused from work and return to work on June 17. While he might have got some prescription medication thereafter, he did not provide any further doctor note in support of his continuing absence from employment beyond June 17 to support a medical leave of absence. The falsification is claimant "leading the employer" on that he was medically excused and had medical documentation to support it.

The corporate leave team that evaluated the claimant documents for leave request could not verify he had been medical excused to justify a leave beyond June 17 and it checked with his treatment clinic to substantiate it. Job disqualifying misconduct is established.

DECISION:

The department decision dated August 23, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on July 22, 2013. 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 the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs