

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D FURMAN
Claimant

APPEAL NO. 13A-UI-05619-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK SHOP INC
Employer

**OC: 04/21/13
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 7, 2013 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 18, 2013. Claimant participated. Employer participated through district advisor Peggy Lang, assistant manager Myrna Meier, and manager Jan Dekoninck.

ISSUE:

Was the claimant discharged for disqualifying job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a store clerk and was separated from employment on April 20, 2013. Notice of a mandatory store meeting on April 22, 2013 at 9:30 a.m. was posted on April 17 at the computer where employees clock in and by the schedule. Dekoninck also told him verbally attendance was mandatory. Claimant had not requested or received permission to skip the meeting, did not call or appear for the meeting and did not return phone calls to his home and mobile phone numbers but showed up later the same day to pick up his paycheck. Claimant said he was sorry for not attending the meeting. The paid (overtime if appropriate) meeting was on his day off and he had 24 hours between the end of his last overnight shift (from April 20 at 11 p.m. through April 21 at 8 or 9 a.m.) and the meeting start time. He had not shown up for meeting a month prior because of a snowstorm and frozen car door.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990).

The employer has presented substantial and credible evidence that claimant failed to establish a reasonable reason for his not attending a mandatory meeting scheduled with adequate notice. This is misconduct. Benefits are denied.

DECISION:

The May 7, 2013 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs