

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUSTINO GARCIA**  
Claimant

**APPEAL NO: 11A-UI-14557-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EZ PAYROLL & STAFFING SOLUTIONS**  
Employer

**OC: 10/09/11**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's November 2, 2011 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Ike Rocha interpreted the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant 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 December 2008. He worked as a full-time packaging operator.

In late September or early October 2011, the claimant found a small tool in the men's restroom. He took the tool from the restroom to give to his supervisor. The claimant he did not know who owned the tool. The claimant put the tool on a counter. The owner of the tool asked the claimant if he had seen the tool. The claimant told him he had seen it in the restroom and picked it up. He showed this co-worker where he left the tool. The employee picked up his tool.

On October 4 or about three days later. The employer discharged the claimant for dishonesty or taking a tool that did not belong to him.

**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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a

right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had business reasons for discharging the claimant, but the evidence does not establish that the claimant committed work-connected misconduct in late September or early October. Therefore, the claimant is qualified to receive benefits.

**DECISION:**

The representative's November 2, 2011 determination (reference 02) is reversed. The employer discharged the claimant, but did not establish that he committed work-connected misconduct. As of October 9, 2011, the claimant is qualified to receive benefits, provided he meets all other 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