

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL L STRAW
Claimant

APPEAL NO: 10A-UI-07870-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MC WANE INC
Employer

OC: 11/22/09
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's May 25, 2010 decision (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on July 15, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Kenny Brewer, the production supervisor, and Tiffany Tremel appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on November 25, 1996. The claimant worked as a full time forklift operator.

During his employment, the claimant received information that an employee could be discharged if the employee intentionally damaged personal protective equipment. At various times, the employer talked to the claimant about getting along with co-workers and controlling his temper when a co-worker upset him. Prior to May 4, the employer had suspended the claimant for losing his temper at work.

On May 4, 2010, the claimant became upset with a co-worker. The claimant was so upset with this coworker that he threw down his hard hat in anger. The hat hit a tub and the headliner in the hat broke. When the claimant went to get a new hard hat, he admitted he lost his temper and threw down his hard hat that resulted in breaking the headliner.

On May 4, 2010, the employer discharged the claimant for his temper outburst at work and for intentionally damaging his personal protective equipment, his hard hat.

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 section 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 claimant should have known his job was in jeopardy if he lost his temper at work after the employer suspended him for a temper outburst. On May 4, 2010, the claimant's conduct and actions, throwing his hard hat down and losing his temper, amounts to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons constituting work-connected misconduct. As of May 2, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's May 25, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 2, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs