

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT WILLCOX

Claimant

APPEAL NO: 13A-UI-07691-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALTER TRADING CORPORATION

Employer

OC: 06/02/13

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Scott Willcox (claimant) appealed an unemployment insurance decision dated June 24, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Alter Trading Corporation (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Des Moines, Iowa on September 30, 2013. The claimant participated in the hearing. Employer Supervisor Jason Weiland and Facility Manager participated in person. Employer Representative Todd Richardson and Corporate Human Resources Manager Stephanie Pimmel participated by telephone. Human Resources Administrator Maria Ferrara was present via telephone but did not participate. Employer's Exhibits One through Eight were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time metal buyer for this scrap recycling company from September 22, 2011 through June 6, 2013 when he was discharged for repeatedly refusing the employer's directives. His supervisor sent him a spread sheet via email on March 5, 2013 and directed him and another employee to begin using these spread sheets on a daily basis. The supervisor suggested they print it out and fill it out after each stop so they could copy it over to another spread sheet which was required to be turned in each Friday. The spread sheet asked for the customer's name and city, the materials bought and any comments. If the spread sheet was not turned in on Friday, it had to be in no later than noon on the following Monday.

On Thursday, May 23, 2013, the claimant was late for work and the supervisor had still not received his weekly report from the previous week. The supervisor had repeatedly warned the claimant he had to be at work from 8:00 a.m. to 4:30 p.m. and that his weekly reports were due every Friday afternoon. A formal written warning was issued on May 23, 2013, which advised

him that he would be suspended or terminated if these problems continued. He signed the warning but claimed at the hearing that he did not know his job was in jeopardy. The claimant was a half hour late for work on Thursday, June 6, 2013 and had not turned in his spread sheet from the previous week even after he was reminded about it on Monday morning.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. It is the employer's burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989).

Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1). The claimant was discharged on June 6, 2013 for excessive tardiness and failure to turn in his weekly reports in a timely manner even though he had received previous verbal and written warnings. Excessive unexcused absenteeism, a concept which includes tardiness, is misconduct and a claimant's repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984); *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. Benefits are denied.

DECISION:

The unemployment insurance decision dated June 24, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css