

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JON HOUSTON
Claimant

APPEAL NO. 13A-UI-09060-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KEVCON CORPORATION
MISTY HARBOR
Employer

OC: 01/06/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Jon Houston (claimant) appealed an unemployment insurance decision dated August 5, 2013, reference 04, which held that he was not eligible for unemployment insurance benefits because he was discharged from Misty Harbor (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 11, 2013. The claimant participated in part of the hearing. The employer participated through Kirk Hanson, Plant Managers and Supervisors David Durnell and Adam Larson. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: After the employer had presented its evidence, the claimant either hung up or was disconnected. The administrative law judge called the claimant's telephone number six times and left a message for him at 12:26 p.m. advising him to call the Appeals Section before 12:36 p.m. or the record would close. The claimant did not call the Appeals Section and the administrative law judge made one more attempt to contact the claimant at 13:38 p.m. but was unsuccessful. The claimant had not called the Appeals Section before the end of the day on September 11, 2013.

The claimant was employed as a full-time fabricator from April 1, 2013 through July 15, 2013 when he was discharged for job abandonment. He walked off the job on July 10, 2013, 31 minutes after he clocked in and was heard saying that he hated the "fucking people" and was done with the "fucking place." The claimant did not return to work or call the employer that day. He called in sick on July 11 and 12, 2013. The claimant returned to work on July 15, 2013 and was discharged. He had walked off the job on June 12, 2013 at 10:09 a.m. but called the

employer and requested to return to work. The employer allowed him to return with the understanding that if he did it again, he would be terminated.

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 the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the 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). The claimant was discharged on July 15, 2013 for job abandonment. Walking off the job constitutes a substantial disregard of the standards an employer has the right to expect. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated August 5, 2013, reference 04, 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