

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATIOP M ANYANG
Claimant

APPEAL NO. 10A-UI-13179-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 08-22-10
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 15, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 3, 2010. The claimant did participate. The employer did participate through Javier Sanchez, Human Resources Assistant Manager.

ISSUE:

Was the claimant discharged due to job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a production worker full time beginning June 29, 2009 through August 26, 2009 when he was discharged for walking off the line after being told not to do so. The claimant wanted his knife blade changed. His supervisor told him to stay on the line and keep working as product was still coming down the line. His supervisor also told him that an employee responsible for providing knife changes to employees would get to him soon to change his knife. The claimant walked away from the line ostensibly to get a new knife even after the supervisor told him not to do so. He was taken to human resources where he became argumentative. He had been given a final warning for his failure to follow instruction on August 24, 2010 and was warned at that time that his job was in jeopardy.

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 § 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.

The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all the circumstances and the employee's reason for noncompliance. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985). Generally, continued refusal to follow reasonable instructions constitutes misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990).

The claimant was told not to leave the line to get his knife changed but did so anyway. He had been warned previously about his failure to follow instructions. It was reasonable for the employer to not want employees randomly leaving the line when product was still coming down the line. The employer had made arrangements for an employee to bring the claimant a new knife. Claimant's repeated failure to follow directions is insubordination and is qualifying job related misconduct. Benefits are denied.

DECISION:

The September 15, 2010 (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css