

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKE G STAUFFER
Claimant

APPEAL NO. 08A-UI-01233-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROCKWELL COLLINS INC
Employer

**OC: 01/06/08 R: 03
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 1, 2008, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 27, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Scott Holmes participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as an assembly operator from February 14, 2005, to January 11, 2008. As part of his job duties, he worked as a quality auditor, which involved inspecting parts.

On January 8, 2008, the claimant was questioned by his supervisor, Shawn Hoke, and the human resource generalist, Scott Holmes, about allegations that he was not communicating equally with all the employees he audited. Specifically, Bonnie McCuen had complained that the claimant had not responded favorably when she showed the claimant a picture of her family, he would not tell McCuen how many parts her line had left to build, and he had told McCuen that he did not know where another worker, Loree Fulkerson, was but he knew she had left to go to the bathroom. In fact, the claimant simply had not said anything other than okay when he was shown the picture. He was not the person responsible for determining the number of parts built. He did not actually know where Fulkerson was because she had left the work area to go to the bathroom but had been gone for about 15 minutes.

At the end of the meeting with Hoke and Holmes, the claimant was told to go back to work and that he was not to talk to employees about what was said during the meeting while the matter was being investigated. A short time later, the claimant was working with Fulkerson and asked her if she thought he was treating everybody fairly and if there was anything he could do to

improve. He did not tell Fulkerson anything that was said during the meeting. Fulkerson offered the claimant some suggestions for improving.

Hoke observed the claimant talking to Fulkerson and decided that he was talking to her about what was said in the meeting. The next morning, the employer suspended the claimant for allegedly talking to Fulkerson about the meeting. When the claimant asked for how long he was suspended, Holmes told him that was yet to be determined. Holmes instructed the claimant not to return to work or talk to anyone until Holmes called him. When the claimant was leaving, he noticed that Fulkerson appeared to be upset and was crying.

The claimant considered Fulkerson to be a friend because they had some common interests that they talked about. He was concerned that she was upset and wanted to assure her. He called her and told her that things would be okay. He thought she sounded strange when they talked and that maybe there was someone standing next to her. On January 11, 2008, the claimant went to the employer's parking lot to wait until Fulkerson arrived so he could reassure her. He approached her in the parking lot and told her that he was okay and things will be okay.

Fulkerson reported the phone conversation and the encounter in the parking lot to management. She told Holmes she was alarmed by the fact that the claimant was waiting for her in the parking lot. The employer then discharged the claimant on January 11, 2008, for violating the instructions about not coming back to work and not talking to employees.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

Iowa Code section 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe Holmes' testimony that he instructed the claimant not to return to work or talk to anyone until Holmes called him. The claimant violated this reasonable instruction. He had to have known that waiting in the parking lot to talk to Fulkerson violated the instructions he was given, even if his purpose was to reassure her that he was okay.

The claimant's violation of the instructions he was given was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated February 1, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css