

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**SAMUEL DEDIOS
2306 W 14TH ST
SIOUX CITY IA 51103**

**WELLS DAIRY INC
PO BOX 1310
LE MARS IA 51031-1310**

**Appeal Number: 06A-UI-05656-H2T
OC: 10-16-05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 25, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 19, 2006. The claimant did participate. The employer did participate through Keith Arens, Production Supervisor and (representative) Ronette Powell, Senior Organizational Capabilities Generalist.

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 14, 1999 through May 10, 2006, when he was discharged.

On May 10, the claimant was asked to perform a job function on the cookie line. The employer was streamlining the process on the cookie line and assigned the claimant to work at the cookie dispenser. The claimant refused to perform the work. The claimant had been told that job duties and processes were changing and the employer was trying to streamline the processes. The claimant just did not want to perform the job. The claimant never told the employer when he was asked to perform the job that he believed it to be unsafe. He was warned that he needed to perform the assigned task or he would be discharged. The claimant refused to perform the assigned duties and was discharged.

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 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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

circumstances and the employee's reason for noncompliance. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985).

The employer was in the process of streamlining some production processes and reassigned the claimant to work on the cookie dispenser. The claimant refused to perform the job, alleging that it was not his job. The employer assigned another employee to perform the job when the claimant refused to perform the work duties. The claimant's bare allegation that the job was unsafe if only performed by one person is not credible in light of the employer's continued assignment of only one person to perform the job duties that the claimant refused to perform.

The employer has the right to allocate its personnel in accordance with its needs and available resources. The claimant's refusal to perform what were clearly reasonable job duties that he had performed before on an almost daily basis is insubordination. The employer was within its rights to ask him to perform the assigned task. The claimant's refusal to perform the assigned job duties is sufficient misconduct sufficient to disqualify him from receiving unemployment insurance benefits. Benefits are denied.

DECISION:

The May 25, 2006, 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.

tkh/cs