

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON L KNOX
Claimant

APPEAL NO. 10A-UI-08897-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 05/23/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated June 18, 2010, reference 01, which denied benefits based upon his separation from Jacobson Staffing Company LC. After due notice, a telephone conference hearing was held on August 9, 2010. The claimant participated personally. The employer participated by Mr. Frank Tursi, Regional Operations Manager.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Aaron Knox was employed by Jacobson Staffing Company from April 27, 2009 until May 26, 2010 when he was discharged from employment. Mr. Knox had been assigned to work throughout the time that he was employed by Jacobson Staffing Company at a client location, the Titan Company, where Mr. Knox was a warehouse worker.

Mr. Knox was discharged from his employment with the Jacobson Staffing Company at the Titan location based upon an incident that took place on May 26, 2010.

On that date the client employer requested that Mr. Knox be removed from the assignment because of what Titan considered to be insubordination by the claimant to a Titan lead person.

During the incident Mr. Knox had suggested that he be assigned to work in a specific area. The company lead person told Mr. Knox to work in that area for a few minutes and then for the claimant to go to a different area where he was assigned. Subsequently the lead person observed Mr. Knox still in the initial area and again instructed Mr. Knox to go to the second floor where he had been assigned for the night. Mr. Knox, who had worked with the lead person well in the past, believed that the lead person was exaggerating the issue and "bugging" the claimant about the matter. As the parties went to the second floor Mr. Knox continued to repetitively

explain his position instead of beginning to perform his work on the second floor area. The exchange between the parties culminated in the lead person asking, "Are you refusing to work?" And Mr. Knox again responding, "No, I'm just talking to you ...". At that juncture a second lead person who was employed directly by Jacobson Staffing arrived and attempted to intervene. When Mr. Knox was told to leave the premises by the Titan lead person he pushed his way past both individuals pushing the Jacobson lead person out of the way with his arm. Based upon the claimant's conduct he was not allowed to return to the Titan location by Titan management.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes conduct sufficient to warrant the denial of unemployment benefits. It does.

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 evidence in the record shows that Mr. Knox was discharged based upon a series of events that culminated in his termination from employment on May 26, 2010. On that date the claimant was instructed to perform a specific task but instead pressed to be allowed to work in a different area. The claimant was given permission to work in that area for a few minutes but again instructed to work in the area where the client employer believed that his services were most necessary. When the lead person again observed that Mr. Knox had not gone to the area where he was directed he was again instructed to do so. Although Mr. Knox followed the lead person to the designated work area, the evidence shows that Mr. Knox continued to argue his

position that he should be working in the other area and to in affect dispute the authority of the lead person to assign him to the work area where the company felt he was needed. Although Mr. Knox was aware that the lead person was becoming exasperated and did not seem to be as friendly as in the past, Mr. Knox chose not to simply follow the work assignment but continued to press his verbal argument. When the lead person finally specifically asked Mr. Knox if he was refusing to do as he was told, the claimant again continued to argue instead of simply beginning to perform the task and when told to leave through both the Titan as well as a Jacobson lead person who had arrived.

The administrative law judge concludes based upon the totality of the evidence in the record that the claimant's ongoing conduct expressed an unwillingness to follow a reasonable work-related directive. Based upon the repetitive nature of the claimant's failure to simply begin the task that he was assigned to, the administrative law judge concludes that the claimant's conduct rose to the level of conduct which warrants the denial of unemployment benefits.

DECISION:

The representative's decision dated June 18, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten time his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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