

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIE A HOUSER
Claimant

IMKO ENTERPRISES INC
Employer

APPEAL 18A-UI-05377-DG-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/15/18
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the May 2, 2018, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was scheduled to be held on May 30, 2018. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 06 representative's decision), no testimony was necessary and no hearing was held.

ISSUE:

Should the representative's decision be reversed so as to be consistent with subsequent agency action?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 06 representative's decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

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.

Iowa Admin. Code r. 871-24.32(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.

Since the decision appealed has been amended in favor of the appellant, the original representative's decision bearing reference 01 is reversed and benefits are allowed.

DECISION:

The May 2, 2018, (reference 01) unemployment insurance decision was reversed by (reference 06). Benefits are allowed.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn