

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LOUIS HUFFMAN
Claimant

APPEAL NO: 09A-UI-06910-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

METHODIST MANOR
Employer

OC: 03/29/09
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Louis Huffman (claimant) appealed an unemployment insurance decision dated April 28, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Methodist Manor (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 1, 2009. The claimant participated in the hearing. The employer participated through Mandy Matthew, Human Resources Director. Sandy Knoke, Business Office Manager, was present for the hearing but did not participate. Employer's Exhibits One through Four were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time dishwasher from June 28, 2007 through March 30, 2009 when he was discharged for insubordination. Refusal to accept reasonable work assignments, verbal abuse of other employees and insubordination is grounds for immediate discharge. The claimant had received a previous written warning on June 3, 2008 for losing his temper in a verbal and physical confrontation with a co-worker. The claimant was upset because a co-employee brought in a dirty dish after the dishes had been cleaned. The claimant yelled and "jumped" the co-worker about it. The verbal argument escalated to a physical confrontation after the claimant pushed the co-worker. The warning advised him that another violation could result in a suspension and/or termination of his position.

On March 30, 2009 at approximately 1:30 p.m. the claimant confronted dietary supervisor, Mike Baker, about bringing a dirty dish into the dishwashing room. The claimant accused the supervisor of leaving a cart in the dishwashing room that had blood in it. The claimant swore at Mr. Baker who walked away but later returned to find out what the claimant's problem was. The

claimant immediately became angry, pointed his finger in Mr. Baker's face and told him he was, "fucking worthless." The human resources director called the claimant and Mr. Baker to the office to discuss the matter. The claimant explained that he was angry because Mr. Baker brought a dirty dish to the dish room and had done it many times before. He admitted he swore at Mr. Baker and said he does that to any other employee who brings in dirty dishes to be washed. When he was asked if that was how he reacted to a dirty dish being brought in to be washed, he stated yes. He was asked if he knew his behavior was insubordinate and he replied yes.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged for insubordination and unacceptable behavior towards others. He had been previously warned about similar conduct but apparently felt his anger and use of profanity was justified because a dirty dish was brought

to the dish room to be washed. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated April 28, 2009, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css