

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL WILLIAMS
Claimant

APPEAL NO. 09A-UI-17024-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PROFESSIONAL BUILDING SERVICES OF
THE QUAD CITIES INC**
Employer

OC: 10/18/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 5, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on December 16, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Kathy Whitcher participated in the hearing on behalf of the employer. Exhibits 1-3 were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a lead floor person for the employer from January 21, 2001, to October 14, 2009. The employer had repeatedly warned the claimant in 2009 about not completing all of his cleaning tasks, including warnings on April 17, April 20, and September 18. The September 18 warning informed him that his job was in jeopardy due to his failure to complete the required cleaning tasks.

On October 14, 2009, a customer found that the claimant had left piles of dirt in the aisles, had not cleaned up spills, had not sweep or mopped the entryways, had not removed marks off the floor, and had not cleaned the bathrooms. After he complained to the operations manager about the unclean conditions in the store, the operations manager inspected the store and found the complaints were true.

The employer discharged the claimant on October 14, 2009, for repeated failure to complete his cleaning tasks.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's repeated failure to complete his cleaning tasks 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. Even if the conduct is considered negligent, it was repeated to the extent that it equals willful misconduct in culpability. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated November 5, 2009, 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/pjs