

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON EADS

Claimant

APPEAL NO: 12A-UI-09522-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARCHER-DANIELS MIDLAND CO

Employer

OC: 07/08/12

Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Archer-Daniels-Midland Company (employer) appealed an unemployment insurance decision dated July 30, 2012, reference 01, which held that Aaron Eads (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 30, 2012. The claimant participated in the hearing. The employer participated through Bryce Albrechtsen, Human Resources Manager and Andy Hardigan, Maintenance Manager. Employer's Exhibit One and Two 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 claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

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 maintenance technician from November 30, 2009 through July 10, 2012 when he was discharged for failure to follow instructions. He had received two warnings for attendance and a suspension for cheating on a written pay for skills test. The claimant was terminated for failure to follow his supervisor's directives on June 30, 2012 but he testified that he complied with those directives.

Steve Lewis asked the claimant to check on an air conditioning condensation pump on the third floor of building 97 as it was not pumping and water was all over the floor. Later Mr. Lewis asked the claimant if it was resolved and the claimant said the pump was doing what it was supposed to do. The claimant testified that the water was not from the condensation pump and he could have cleaned it up but did not have time before his shift ended. Mr. Lewis did not participate in the hearing.

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 discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged for failure to follow his employer's directives on June 30, 2012. He contends he followed his supervisor's directives and the employer could only offer hearsay evidence disputing that claim. The administrative law judge concludes that the hearsay evidence provided by the employer is not more persuasive than the claimant's denial of such conduct. The employer has not carried its burden of proof to establish that the claimant committed any act of misconduct in connection with employment for which he was discharged. Misconduct has not been established. Benefits are therefore allowed.

DECISION:

The unemployment insurance decision dated July 30, 2012, reference 01, is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css