

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES A WOOD
Claimant

APPEAL NO. 09A-UI-11146-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FERGUSON ENTERPRISES INC
Employer

**Original Claim: 06/28/09
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

James A. Wood filed a timely appeal from an unemployment insurance decision dated July 24, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held August 19, 2009, with Mr. Wood participating. Lisa Wood and Sam Hirsch also participated on his behalf. Human Resources Administrator Deb Damage participated for the employer, Ferguson Enterprises, Inc. Employer Exhibit One was admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with his employment?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: James A. Wood was employed by Ferguson Enterprises, Inc. from November 5, 2007, until he was discharged on or about June 25, 2009. He last worked as a mezzanine associate. After the end of his shift on the evening of June 23, 2009, Mr. Wood became involved in a verbal confrontation with a coworker. Both employees used profanity. There was no physical altercation involving shoving or hitting. As a result of the confrontation, Mr. Wood was discharged. The coworker received a verbal warning. In his evaluation a month before the incident, Mr. Wood was marked below average on communication skills and on his ability to maintain control and composure. The goal at the end of the review was for Mr. Wood to improve his professional communication skills.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with his employment. It does.

The evidence establishes that Mr. Wood violated company policy by engaging in a verbal altercation with a coworker on company premises. In light of the claimant's recent evaluation, the administrative law judge concludes that the claimant's behavior constituted misconduct. Benefits must be withheld. The administrative law judge notes that the coworker received a

warning as a result of the incident. While it appears from the testimony in this record that the coworker was equally culpable, it does not appear that the employer was fully aware of this at the time of the decision to discharge Mr. Wood.

DECISION:

The unemployment insurance decision dated July 24, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw