

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ROGER D CRIPPEN
702 SHERMAN
IOWA FALLS IA 50126**

**CENTRAL IOWA GRAIN INSPECTION
CORPORATION
PO BOX 250
IOWA FALLS IA 50126**

**Appeal Number: 05A-UI-05483-HT
OC: 04/24/05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a - Discharge

STATEMENT OF THE CASE:

The claimant, Roger Crippen, filed an appeal from a decision dated May 20, 2005, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 10, 2005. The claimant participated on his own behalf. The employer, Central Iowa Grain Inspection Corporation (CIGIC), participated by Owner Kevin Bredthauer.

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: Roger Crippen was employed by CIGIC from

February 3, 2003 until April 25, 2005. He was a full-time technician/sampler. During his employment he received a copy of the employee handbook which states employees are subject to immediate discharge for any fighting on the job.

The claimant had received verbal counselings from Owner Kevin Bredthauer about his poor interpersonal skills with customers and co-workers. The site manager of a co-op had complained of a verbal altercation with Mr. Crippen in January 2005. The claimant's performance evaluation on January 17, 2005, indicated he needed to improve his customer relations and also working relationships with customers and co-workers.

On April 24, 2005, Mr. Bredthauer, another employee, and the claimant were working at the same co-op where Mr. Crippen had previously been involved in the verbal altercation with the site manager. The owner left the facility to get lunch for him and his employees, but was summoned back by the other employee who reported the claimant had been involved in some kind of altercation with an employee of the co-op. Upon returning Mr. Bredthauer interviewed the claimant, his other employee, the co-op employee involved in the altercation and another employee of the co-op who had witnessed the incident. Mr. Crippen maintained the co-op employee had started the altercation but the two co-op employees stated the claimant had initiated the shoving and pushing.

Mr. Crippen denied beginning the physical altercation but did admit to asking the other worker if he "was stupid or something" as they were working together. He was sent home and later the employer interviewed the site manager. The county sheriff's office also investigated. No charges were filed and the claimant was notified the next day by Mr. Bredthauer that he was discharged.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The record establishes the claimant had a history of inappropriate interaction with co-workers and customers, especially at this particular facility. The altercation on April 24, 2005, was not an isolated incident but one more confrontation with a customer. The claimant maintained he did not initiate the confrontation but it is apparent from his own testimony that he was provocative and belligerent and the administrative law judge does not find him to be credible when he denied initiating the physical portion of the altercation.

The claimant was aware fighting was prohibited and was grounds for discharge. His conduct was a violation of a known company rule and, as it not only violated this rule but seriously jeopardized the employer's business relations with this customer, is conduct not in the best interests of the employer. He is disqualified.

DECISION:

The representative's decision of May 20, 2005, reference 01, is affirmed. Roger Crippen is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/pjs