

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUANITA STAMPS

Claimant

APPEAL NO: 09A-UI-15402-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 09/20/09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Juanita Stamps (claimant) appealed a representative's October 9, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 16, 2009. The claimant participated in the hearing and presented testimony from one other witness, Kevin Carpenter. Kris Travis appeared on the employer's behalf. During the hearing, Employer's Exhibits One, Two, and Three were entered 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:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on January 22, 2008. She worked full time as a production laborer on the first shift at the employer's Columbus Junction, Iowa pork processing facility. Her last day of work was September 16, 2009. The employer suspended her that day and discharged her on September 17, 2009. The stated reason for the discharge was workplace violence.

Mr. Carpenter is the claimant's husband, and was and is also employed at the employer's facility. They had both worked in the same area, on the kill floor. On September 16 Mr. Carpenter had approached the claimant to question why she would not smile at him that day, although she seemed to smile at other employees. The two exchanged some words and the claimant became agitated; she had recently suffered a personal loss and tended to be overly emotional. On this occasion, when Mr. Carpenter asked her to stop cursing, she told Mr. Carpenter she was going to cut him, and then slashed at him with her utility knife. She had believed that the rubber slicker Mr. Carpenter was wearing would protect him. However, the knife blade went through the rubber slicker and made a four-inch cut along Mr. Carpenter's abdomen. While Mr. Carpenter's injury did not necessitate a trip to the hospital, he did need

and received medical treatment in the employer's nurse's office; the staff there applied steri-strips to pull the edges of the wound closed. As a result of this incident, the claimant was discharged.

REASONING AND CONCLUSIONS OF LAW:

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. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's act of using her knife towards a coworker 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. This outcome is not affected by whether the claimant intended to break the coworker's skin or planned to cause him injury. The intentional action of swiping the knife at her coworker alone, not the degree of the outcome, was the misconduct. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's October 9, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving

unemployment insurance benefits as of September 16, 2009. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs