

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS E ADAIR**  
Claimant

**APPEAL NO: 13A-UI-01052-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**  
Employer

**OC: 11/25/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a representative's January 16, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Karla Brown and Ronda Hefter appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The employer is a staffing agency. The claimant registered to work for the employer's clients in February 2012. Most recently the employer assigned the claimant to work at Habitat for Humanity. In early December the claimant was on light-duty work.

On December 7, while working at Habitat for Humanity, the claimant re-injured his hand. The claimant reported to work at Habitat for Humanity on December 8. He understood he was to report to work on Saturday, December 8.

On December 10, the employer's Des Moines branch office received an email from Habitat for Humanity that they did not want the claimant to return to this assignment because on Saturday, December 8, the employer observed the claimant put a pair of the client's safety glasses into his jacket and had asked a Habitat Humanity employee to sign his timecard that the claimant had worked 40 hours when he had not. The employer's Des Moines branch office forwarded this email to Brown.

On December 10, Brown contacted the claimant and asked him about the allegations. The claimant denied he asked a Habitat for Humanity employee to falsify the hours he worked that week. On December 10, the claimant gave Brown several "stories" about the safety glasses. First, he told her that he took them and put them back. Next, he indicated he took them

because he was upset that he hurt his hand again and his grandson was in the hospital. Third, since another employee had taken the safety glasses out of inventory, he took the safety glasses when this employee did not return to work and the safety glasses were no longer in Habitat for Humanity's inventory. During the hearing, the claimant denied he took any safety glasses. He gave Brown several stories on December 10 because Brown accused him of taking the safety glasses.

On December 10, the employer discharged the claimant because he admitted he took the client's safety glasses which violated one of the employer's policies - theft or misappropriation of another's property.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant may have been upset when Brown contacted him on December 10 and told him he had been accused of taking safety glasses that did not belong to him. Regardless of whether the claimant took the safety glasses or not, his conflicting statements on December 10 amount to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. In other words, if the claimant did not take the glasses, he was required to tell Brown the truth and not give her three different stories. As a result of his various stories, the employer had no alternative but to conclude he violated the employer's policy and discharged him for work-connected misconduct. As of December 9, the claimant is not qualified to receive benefits.

Since the claimant was on light-duty work when he was discharged if this separation should be reversed, the Claims Section must investigate and determine if the claimant was able to and available for work as of December 9, 2013.

**DECISION:**

The representative's January 16, 2013 determination (reference 01) is affirmed. On December 10, 2012, the employer discharged the claimant for work-connected misconduct - the claimant was not honest about what he did or did not do with safety glasses on December 8. The claimant is disqualified from receiving unemployment insurance benefits as of December 9, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/tll