

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN S BOTO
Claimant

APPEAL NO. 11A-UI-01315-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 12/05/10
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 31, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant participated in the hearing. Jessica Garcia, a human resource assistant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds 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 claimant started working for the employer in March 2010. The claimant worked as a full-time production employee. The employer's rules prohibit employees from fighting at work. The claimant received a copy of the employer's rules when he started working.

Prior to November 29, 2010, the claimant's job was not in jeopardy. On November 29, the claimant thought C., a co-worker, was talking to another co-worker about the claimant during a break. Although C. told the claimant he had not been talking about him, the claimant was convinced he had and was upset when they walked back from a break to their work stations. After C. swore at him, the claimant left his work station, walked to C.'s work station and confronted C. at his work station. The claimant and C. engaged in a physical confrontation. After the fight, C. had surgery for a broken jaw. The claimant did not go to the superintendant to report problems he had with C.

The employer suspended the claimant on November 29, 2010. After the employer investigated the incident, the employer discharged the claimant on December 7, 2010, for violating the employer's no-fighting at work policy. The employer also discharged C.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant received a copy of the employer's rules and knew or should have known the employer did not allow employees to fight at work. When the claimant returned to his work station after a break, he was upset. Instead of reporting problems he had with C. to the superintendent, the claimant took the matter into his own hands when he left his work station, confronted C. and then engaged in a physical confrontation at C's work station. The employer discharged the claimant for violating the employer's policy of no fighting at work. The claimant committed work-connected misconduct on November 29, 2010. As of December 5, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's January 31, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 5, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw