

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TED H MILLER
Claimant

APPEAL NO. 07A-UI-08179-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PACIFIC PROCESSORS INC
Employer

OC: 07/29/07 R: 02
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Ted Miller filed an appeal from a representative's decision dated August 23, 2007, reference 01, which denied benefits based upon his separation from Iowa Pacific Processors Inc. After due notice was issued, a hearing was held by telephone on September 11, 2007. Mr. Miller participated personally. The employer participated through Roger Verhoef, Production Manager.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct in connection with his work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from September 19, 2006 until July 27, 2007 when he was discharged from employment. Mr. Miller held the position of full-time maintenance employee and was paid by salary. His immediate supervisor was John Ralls. Mr. Miller was discharged for failure to repair company equipment as directed and have the equipment set up and ready to operate in time for production to begin. The claimant had been warned regarding failure to repair equipment and failure to have equipment set up as directed. Mr. Miller initially was considered to be an excellent employee, however, as time progressed the employer became increasingly dissatisfied with Mr. Miller's work as the employer reasonably believed the claimant had lost his enthusiasm and was unwilling to follow work directions that had been given to him. With time the claimant's attitude had deteriorated because the claimant believed that he was being required to provide training to his immediate supervisor who was paid at a higher rate. Mr. Miller had been warned for failing to have equipment set up and ready to operate, being warned on June 18 and July 13, 2007.

The claimant was discharged following his failure on July 25, 2007 to have a shrink machine operable or the alternative to ensure that a replacement machine was repaired and ready to function in the event that a backup was needed.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant's discharge took place under disqualifying conditions. The evidence in the record establishes that Mr. Miller was initially considered to be an excellent employee, however, with time the claimant's performance deteriorated despite warnings. Mr. Miller began performing his work in a haphazard manner; working below his capabilities because of his personal dissatisfaction with the fact that his supervisor was being paid more than the claimant was being paid. The claimant was also dissatisfied because he thought that he was being required to provide "training" to his supervisor. In spite of warnings, the claimant's poor performance continued resulting in his termination when the claimant failed to have backup equipment ready and available on July 25, 2007 as required, or in the alternative, to inform upper management of his inability to do so and provide reasons for it.

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.

For the reasons stated herein the administrative law judge finds that the claimant's discharge took place under disqualifying conditions. Benefits are withheld.

DECISION:

The representative's decision dated August 23, 2007, reference 01, is hereby affirmed. The claimant was discharged for misconduct. Unemployment insurance benefits are withheld until

the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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