

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES D WILLIAMS
Claimant

APPEAL NO. 09A-UI-02997-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ORAL-B LABORATORIES
Employer

**Original Claim: 01/18/09
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Charles D. Williams filed a timely appeal from an unemployment insurance decision dated February 13, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held March 23, 2009, with Mr. Williams participating. Employee Relations Manager Becky Hasler participated for the employer. Employer Exhibit One was admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with his employment?

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: Charles D. Williams was employed by Oral-B Laboratories from September 24, 1990, until he was discharged December 12, 2008. He last worked as a molding machine technician.

On November 19, 2008, Mr. Williams made an entry in the employer's time records system that he would be absent due to illness on November 21, 2008. He did not work that day, and he did not attend a union meeting that he was scheduled to attend. On the evening of November 21, however, the employer's human resources director saw the claimant at a tailgating party in Minneapolis. Surprised at the claimant's presence, he asked the claimant about the union meeting. Mr. Williams replied that he had made arrangements not to go to that meeting, because he was coming to the Twin Cities. Had Mr. Williams requested a personal day for November 21, 2008, he would not have been paid. Since he coded it as sick leave, he was paid for the day.

Company policy allows employees to correct errors in their time report at any time prior to the end of the following pay period. The following pay period ended on December 7, 2008. Mr. Williams made no correction for November 21. He received his paycheck on Saturday, December 6. He did not report any error in his time entries on December 8, 2008, before reporting to work. When confronted, he had no immediate explanation for his entry. He was

discharged pursuant to company policy for making a false report for time records, a disqualifying event.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that the claimant was discharged for misconduct in connection with his employment. It does.

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.

From the evidence in the record, the administrative law judge concludes that the claimant knowingly and willfully made a false report for his time records for November 21, 2008, for the purpose of receiving pay he would not have otherwise received. This is misconduct. The administrative law judge notes that the employer waited for approximately two weeks before discharging Mr. Williams. Since Mr. Williams could have corrected any inadvertent error during those two weeks, the administrative law judge concludes that the final incident was still a current act of misconduct on the day following the last day any error could have been corrected. Benefits are withheld.

DECISION:

The unemployment insurance decision dated February 13, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw