

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

WILLIAM C SCHMIDT
3183 – 240TH
KELLERTON IA 50133

CHRISTENSEN FARMS MIDWEST LLC
CHRISTENSEN FAMILY FARMS
PO BOX 3000
SLEEPY EYE MN 56085

Appeal Number: 05A-UI-03164-DWT
OC: 02/20/05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Christensen Farms Midwest LLC (employer) appealed a representative's March 16, 2005 decision (reference 01) that concluded William C. Schmidt (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer discharged the claimant for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 13, 2005. The claimant participated in the hearing. Chris Hackney, the manager, and Misty Gassett appeared on the employer's behalf. 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:

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

FINDINGS OF FACT:

The claimant started working for the employer on April 28, 2004. The claimant worked as a full-time herdsman. Mike Jensen was the claimant's supervisor.

During the course of his employment, the employer noticed problems with the claimant's work performance. On October 6, 2004, the employer gave the claimant a verbal warning for unsatisfactory job performance. On December 15, 2004, the employer gave the claimant a verbal warning for missing a dead sow when he walked through the barn. The employer gave the claimant a written warning on January 13, 2005 for again failing to find or see a dead sow as he walked through the barn. The claimant received his final written warning on career decision day on February 16, 2005. The employer gave the claimant this warning because he had not cleaned his assigned rooms satisfactorily. The claimant understood that if there were any more problems with his performance, the employer would discharge him.

On February 18, 2005, the employer told the claimant to get some bleach and use it to clean. The claimant followed the employer's instructions. After the claimant obtained the bleach from a hose connected to bleach, he took the bleach to the room that needed cleaning. The hose that distributed the bleach did not get completely turned off or hung up correctly. As a result, bleach leaked out and seeped into a room with pigs. Some pigs died as a result of bleach leaking into a room. Since the employer had already warned the claimant about repeated unsatisfactory job performance, the employer discharged the claimant after the bleach incident.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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 facts show the employer had compelling reasons for discharging the claimant. Although the claimant tried to do his job satisfactorily, he did not meet the employer's standards. The "bleach incident" was an accident. The claimant did not intentionally allow bleach to leak out of a hose. Each time the employer gave the claimant a warning about his job performance, it was

due to unsatisfactory work. The claimant did not intentionally fail to do his job. The claimant did not commit work-connected misconduct. Therefore, as of February 20, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 16, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected misconduct. As of February 20, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/pjs