

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN D VOLKER
Claimant

APPEAL NO. 09A-UI-06073-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BRIDGESTONE AMERICAS TIRE
OPERATIONS LLC**
Employer

OC: 03/22/09
Claimant: Appellant (1)

Section 96.5-2-a – Suspension

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 9, 2009, reference 01, that concluded he was suspended for work-connected misconduct. A telephone hearing was held on May 14, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant suspended for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as production worker until March 22, 2009. He was informed and understood that under the employer's work rules, employees were not allowed to smoke anywhere in the plant.

On March 22, 2009, the claimant willfully violated the no smoking rule by smoking a cigarette in the locker room. He was suspended for one week for this violation.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was suspended for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged or suspended for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated April 9, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs