

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LARRY G BESCH**  
Claimant

**APPEAL NO. 12A-UI-03490-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KCAU-TV**  
Employer

**OC: 01/22/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated April 2, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on April 23, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Grant Beckwith. Jill Collins participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked part-time for the employer as a business maintenance worker from October 4, 2010, to January 12, 2012. One of the claimant's duties was to make sure that the bathrooms were stocked with supplies, such as paper towels and toilet papers. He was instructed to keep extra supplies in cabinets on the first floor so the bathrooms could be stocked when they ran out.

On several occasions, the business manager, Jill Collins, would notice that the bathrooms were out of supplies, but when she checked the designated storage area for extra supplies, there would not be enough supplies to restock the bathroom. When she asked the claimant about extra supplies, he told her that they were out.

In fact, the claimant was untruthful with Collins when she asked about supplies for the bathroom, because he was storing large amounts of extra supplies on the second floor. He told no one about where he was keeping the supplies.

On the morning of January 12, 2012, Collins again asked about paper towels because an employee has reported that the men's bathroom was out of paper towels. The claimant said he was out of paper towels. When Collins asked again, the claimant then said he had one roll of paper towels and he would get it. Collins attempted to follow the claimant to see where he was keeping the supplies. Collins discovered the claimant went upstairs. When she saw the claimant upstairs, Collins asked him if this was where he was keeping the supplies. The claimant replied no and ran past Collins with a single roll of paper towels under his arm. Collins and other managers found enough supplies to last for two months, including 12 rolls of paper towels and two cases of toilet paper.

The employer discharged the claimant on January 12, 2012, for being untruthful about supplies and unsatisfactory cleaning performance.

**REASONING AND CONCLUSIONS OF LAW:**

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

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. Collins' testimony about what happened on January 12 is entirely credible. Collins would have no reason to make up the story about finding the claimant on the second floor, his denying that he was storing things there, and his running past her with a roll of paper towels. I believe the claimant was untruthful when Collins asked him if there were any paper towels and this happened multiple times.

The claimant's conduct in hoarding supplies and lying to Collins about the availability of the paper towels was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of honest 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 2, 2012, 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw