

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN D REDIG**

Claimant

**APPEAL NO. 13A-UI-03367-S2**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 02/10/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

John Redig (claimant) appealed a representative's March 11, 2013 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with Casey's Marketing Company (employer) for violation of a known company rule. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for May 10, 2013, in Des Moines, Iowa. The claimant participated personally and through his wife, Stephanie Redig. The claimant's daughter, Emma Redig, observed the hearing. The employer participated by Bill Brauer, Distribution Center Director. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 27, 2007, as a full-time light-duty order filler. The claimant signed for receipt of the employer's handbook in April 9, 2008. The claimant was issued a written warning on June 23, 2009, for absenteeism. The employer notified the claimant that further infractions could result in termination from employment. The claimant suffered from approximately one manic episode per year and the employer was aware of the claimant's condition. The claimant applied for and was granted Family Medical Leave (FMLA).

On February 14, 2013, the claimant knew that he was not mentally healthy enough to work due to his condition and requested the day off. The employer told him that he did not have sick, vacation or personal time and, therefore, had to report to work. The claimant went to work because did not want to lose his job. After a while he told the employer he was not feeling well and asked if he could leave. The employer told him he could not leave. Later the director saw the claimant. The claimant's hand was bleeding and he was using inappropriate language. The director helped him to wash his hand. The claimant grabbed the director's tie in an effort to get his help to go home. The director did not know about the claimant's previous requests for time off due to illness. The director sent him home.

The claimant immediately went to the hospital. He was released on February 14, 2013. The employer terminated the claimant on February 14, 2013, for inappropriate behavior at work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

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.

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). The employer told the claimant he had to work while he was sick and then terminated him for exhibiting signs of his illness at work. The employer did not provide any evidence of job-related misconduct. The claimant's behavior was unintentional and due to his medical condition. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's March 11, 2013 decision (reference 01) is reversed. The employer has not met its proof to establish job-related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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