

**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**

**DONALD L CHRISTENSEN
1026 E WASHINGTON AVE
COUNCIL BLUFFS IA 51503**

**KVAERNER SONGER INC
455 RACETRACK RD
WASHINGTON PA 15301**

**Appeal Number: 05A-UI-01570-CT
OC: 01/09/05 R: 01
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 for Misconduct

STATEMENT OF THE CASE:

Kvaerner Songer, Inc. filed an appeal from a representative's decision dated February 15, 2005, reference 02, which held that no disqualification would be imposed regarding Donald Christensen's separation from employment. After due notice was issued, a hearing was held by telephone on March 1, 2005. Mr. Christensen participated personally. The employer participated by Marie Rulong, Payroll, and Theresa laquinta, Safety Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Christensen was employed by Kvaerner Songer, Inc.

from March 29 until June 10, 2004 as a full-time carpenter. He was discharged based on allegations that he was not efficient or productive in the performance of his job. The employer was unable to articulate any details regarding Mr. Christensen's performance. He had not received any warnings, either verbal or written, advising him that his continued employment was in jeopardy. Mr. Christensen was told that he and 15 others were being laid off due to a reduction in force.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Christensen was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer alleged that Mr. Christensen was not productive or efficient in performing his job. It was incumbent upon the employer to provide specific details as to the reason for discharge as mere allegations of misconduct are not sufficient to result in disqualification from benefits. See 871 IAC 24.32(4). Although the employer may have been dissatisfied with Mr. Christensen's performance, there was no evidence to establish a willful or wanton disregard of the employer's interests or standards.

Given the lack of specific details from the employer, the administrative law judge concludes that the employer has failed to satisfy its burden of proof. For the reasons cited herein, the administrative law judge concludes that benefits are allowed.

DECISION:

The representative's decision dated February 15, 2005, reference 02, is hereby affirmed. Mr. Christensen was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/sc