

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN E REESE
Claimant

APPEAL NO: 15A-UI-00130-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE
Employer

OC: 12/07/14
Claimant: Respondent (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 26, 2014 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate at the January 28 hearing. Jeff Higgins and Randy Schaffer appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in June 2012. He worked as a full time maintenance engineering technician. When the claimant started working, he received training on how to open equipment under pressure. Part of the training and a note on the equipment informs employees they must obtain permission from a supervisor before they manually open equipment that is under pressure.

On October 8, 2014, the claimant received a call that a press had lost power and was not responding. After the claimant got to the press, he noticed the breaker was tripped and reset it. The breaker immediately tripped again. The claimant checked the pressure and the equipment registered no pressure. The claimant reported that he looked for a short on the backside of this press, but there are no switches on the back of this press. The claimant decided to manually open the press by joggling a switch. This released pressure and compressed steam created an explosion. As a result of opening the press, the claimant's leg was burned and he was hospitalized.

The claimant was off work for medical treatment until November 25, 2014. On November 25, 2014, the employer met with the claimant and his union representative to obtain the claimant's statement of what happened on October 8, 2014. The employer placed the claimant on a leave without pay while the employer investigated the October 8 incident.

The employer concluded the claimant did not check for a short because all switches for this press were on the front of the press. The employer also concluded the claimant did not follow proper procedure because he should have checked for a short on the pressure switches, which was the problem, and he did not obtain permission to manually open the press as he was required to do. Although the claimant's job was not in jeopardy before the accident, the employer discharged him on December 10, 2014, for failing to follow the proper procedure to manually open a press on October 8, 2014.

The claimant established a claim for benefits during the week of December 7, 2014. He has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code Section 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

When the claimant failed to obtain permission to manually open a press, he intentionally ignored the sign or note that was on the press informing employees they had to obtain permission before opening the press. When the claimant opened the press without permission, the compressed steam in the press exploded and burned the claimant. It is unfortunate that the claimant was injured.

Without the claimant's testimony, the evidence indicates he intentionally disregarded the employer's instructions and procedures which resulted in the claimant's work injury. For unemployment insurance purposes, the claimant committed work-connected misconduct. As of December 7, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 26, 2014 denervation (reference 02) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of December 7, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs