

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS R TITUS
Claimant

APPEAL NO. 08A-UI-06043-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACH FOOD CO INC
Employer

**OC: 06-01-08 R: 02
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 26, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 6, 2008. The claimant did participate along with his witness, Steve Williams. The employer did participate through Jeff Kriegel, Assistant Packaging Manager and (representative) William Nelson, Human Resources and Security Manager.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a west room line operator full time beginning June 5, 2000 through May 2, 2008 when he was suspended and then discharged on May 30, 2008.

On May 2, the claimant began yelling at a coworker, R.A. screaming at her at the top of his lungs that she should leave him the “fuck” alone and that she should quit “fucking” with him. Prior to this R.A. did not speak to the claimant nor did she touch him or do anything to antagonize him. She was assigned to work on a line that required her to walk by him on her way to a computer she needed to use to perform her job functions. The claimant was under the impression that R.A. had romantic feelings for him. The claimant had previously asked R.A. out and she had rebuffed all of his romantic advances telling the claimant that she was married and did not want to be involved with him. The claimant and R.A. were separated in the plant. R.A. complained to management about the claimant’s treatment of her.

The employer investigated the incident and interviewed witnesses. Without fail all of the witnesses to the event indicated that R.A. had done nothing to antagonize the claimant. She had merely walked past him on her way to the computer. When the claimant blew up at R.A. and began screaming at her she told him to go to a supervisor.

The claimant had been previously sent to counseling for his explosive temper and outbursts. The claimant had been warned in April that if he had another incident of losing his temper and screaming at his coworkers that his job was in jeopardy. Marlene Reinerston overheard the claimant use profanity, including the F word when speaking to R.A. on May 2.

The claimant filed a grievance over his suspension and discharge, which was dropped by the union. The union was to tell the claimant that they had decided not to pursue his grievance on May 20. When Mr. Nelson learned that the union had not told the claimant he was discharged and that the union had decided not to pursue his grievance, he wrote the claimant a letter on May 30, informing him that his employment had ended.

Another union steward, Brant Grafty, was present in the early part of the evening and reported to the employer that R.A. had merely been doing her job which that night required she walk by the claimant.

The claimant had been counseled by Mr. Nelson in January 2008 about his obsession with R.A. At that time the claimant was warned that his behavior could lead to his discharge. The employer concluded that the claimant was obsessed with R.A. and that she was not doing anything to antagonize the claimant.

The claimant reported at hearing that he had the same problem at his prior employment where he believed another woman was "messing with his mind." The claimant did not want to see R.A. in the workplace. R.A. had complained to managers about how she had to endure the claimant's unreasonable angry outbursts.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge is not persuaded that R.A. was pursuing the claimant as he alleged at hearing. Claimant alleges that R.A. was the troublemaker, yet all of the witnesses to the event of May 2 indicate that R.A. did not speak to or touch the claimant before his outburst. The administrative law judge is persuaded that the claimant suffered from a mistaken notion that R.A. wanted a relationship with him. Mr. Williams's notion that R.A. should accommodate the claimant's desire that he not see her is untenable. Mr. Williams only witnessed R.A. walking where all employees were walking. Mr. Williams never witnessed R.A. touch or say anything to the claimant. The claimant had no right to insist that R.A. not walk where other employees were allowed to walk or congregate. R.A. was not required to accommodate the claimant's mistaken notion by altering her normal work behavior, including walking on the normal path to and from breaks. On the evening of May 2, R.A. did nothing to antagonize the claimant. R.A. was allowed to walk where she chose and to use the computer necessary for her to complete her job duties. The claimant's outburst was unprovoked and unwarranted. His screaming at R.A. and use of profanity towards her is misconduct. The claimant had been warned previously about his angry outbursts by both the management and union representatives. The claimant's outburst, including his yelling and use of profanity, constitutes misconduct sufficient to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The June 26, 2008, reference 01 decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has

worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css