

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAN E HELMICK**  
Claimant

**APPEAL NO. 09A-UI-02968-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**  
Employer

**OC: 01/18/09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 19, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on March 20, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Monica Dyer participated in the hearing on behalf of the employer with a witness, Ron Swain. Exhibits A and B and One through Six were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a maintenance mechanic from August 6, 2007, to January 23, 2009. Employees are entitled to a 30 minute unpaid lunch break and a 20 minute paid break in the morning and afternoon. On July 5, 2008, was counseled by his supervisor about not neglecting his work and being unproductive during his work shift on July 4.

On January 18, 2009, the claimant was scheduled to work a 12-hour shift. The claimant only recorded working for eight hours. During the course of the day, the claimant took more than the breaks he was allowed under the employer's policy. He spent over an hour in the cafeteria and outside, beyond his lunch break, which he went home for. The claimant does suffer from anxiety and was experiencing symptoms of a panic attack that day, which led to some unproductive time. He did not inform anyone about that on January 18. Management became concerned because there were times when he could not be found in the plant.

After investigating the claimant's breaks, the employer discharged the claimant on January 23, 2009, for violating the employer's break policy and not working productively during his shift.

**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 claimant's violation of a known work rule and a warning he had received in July 2008 was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. If the claimant had a health problem that was interfering with his productivity, he should have informed his supervisor. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated February 19, 2009, 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/css