

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LUCAS J HELGET**

Claimant

**APPEAL NO. 14A-UI-08150-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HAWKEYE SOW CENTERS INC**

Employer

**OC: 07/20/14**

**Claimant: Respondent (4)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Hawkeye Sow Centers, Inc. filed a timely appeal from a representative's decision dated August 6, 2014, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on August 28, 2014. The claimant participated. The employer participated by Ms. Trisha Adams, Human Resource Manager.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct and whether the correct date of separation has been established.

**FINDINGS OF FACT:**

Having considered all the evidence in the record, the administrative law judge finds: Lucas Helget was employed by Hawkeye Sow Centers, Inc. from November 13, 2013 until July 17, 2014 when he was dismissed because he needed additional time away from work due to injury. Mr. Helget was employed as a full-time herdsman and was paid by salary.

Mr. Helget had exhausted the four weeks of medical time allowed by the company prior to July 17, 2014. The claimant had been injured and had taken time away from work because of his injury and because of medical appointments for family members. Mr. Helget re-injured his left shoulder in a July 4, 2014 motor vehicle accident that was not work related. The claimant attempted to return to work on July 8, but was not allowed to do so because the claimant had a light-duty limitation and the employer had no light-duty work available for the claimant because of his non-work-related injury. Mr. Helget continued to be maintained on the company's employment records until July 17, 2014 when he notified the employer that he would need to take additional time away from work for future shoulder surgery.

The employer made a management decision at that time to separate Mr. Helget from his employment with the company because the employer needed to replace Mr. Helget in his job position and the employer had no light-duty work available.

The employer does not contend that Mr. Helget's job separation was disqualifying but wants to establish that the claimant's separation date was July 17, 2014 in this matter.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The evidence in the record establishes that Mr. Helget was separated by Hawkeye Sow Centers, Inc. because he was unable to report for full duty due to an injury. The employer was aware that the claimant could not perform his full duties because he was medically unable to do so and made a management decision to separate Mr. Helget because they could no longer keep his job position open and had no light-duty work available for him.

The administrative law judge concludes based upon the evidence in the record that the claimant had properly reported his impending absences and the claimant's inability to report for full work because he was injured was not intentionally in disregard of the employer's interests or standards of behavior. The administrative law judge concludes based upon the evidence in the record the claimant's separation date was July 17, 2014 and that the claimant's separation took place at that time under non-disqualifying conditions. Unemployment insurance benefits are allowed providing the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated August 6, 2014, reference 01, is affirmed as modified. The portion of the determination finding that the claimant was discharged under non-disqualifying conditions is affirmed. The portion of the determination finding that the claimant was dismissed from work on July 8, 2014 is modified to find that the claimant was dismissed from work on July 17, 2014.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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