

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARREN S HONSBRUCH**  
Claimant

**APPEAL NO: 11A-UI-02506-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADM GROWMARK RIVER SYSTEMS INC**  
Employer

**OC: 01/23/11  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 24, 2011, reference 01, that held he was discharged for misconduct on January 26, 2011, and benefits are denied. A hearing was held in Sioux City, Iowa on May 25, 2011. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment as a full-time elevator operator on November 11, 2003, and last worked for the employer on January 26, 2011. The claimant knew about the lock-out/tag-out procedure for placing personal paddle locks on the conveyor belt and tripper prior to entering the grain bin.

On January 26, 2011, claimant was distracted from his usual job duties due to snow removal and other tasks. He entered a grain bin without following the lock-out/tag-out procedure. He forgot to lock-out the tripper. When confronted by the plant superintendent, he admitted the policy violation with a belief he might be suspended, because he had not previously been disciplined for this violation. The employer elected to discharge claimant.

The employer failed to appear for the hearing.

**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.

871 IAC 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.

The administrative law judge concludes the employer has failed to establish claimant was discharged for misconduct in connection with employment on January 26, 2011, for a violation of company policy.

The claimant admitted he violated the policy by forgetting to place his personal paddle locks. This is an isolated incident of poor judgment based on the lack of prior discipline. He forgot to check to see his locks were in place before entering the bin due to work distractions that had occurred prior to him doing so. Job disqualifying misconduct is not established.

**DECISION:**

The department decision dated February 24, 2011, reference 01, is reversed. The claimant was not discharged for misconduct on January 26, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/css