

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOAN K LEUER
Claimant

APPEAL NO. 14A-UI-12737-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINK SNACKS INC
Employer

**OC: 11/09/14
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Joan Leuer (claimant) appealed a representative's November 26, 2014 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Link Snacks (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 7, 2015. The claimant participated personally. The employer participated by Marty Moore, Human Resources Manager. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 14, 2005 and at the end of her employment she was working as a full-time order selector. The claimant signed for receipt of the employer's Work Rules on November 14, 2005. The employer had issued the claimant some safety warnings in the past.

Employees could earn bonuses each quarter if they did not make any mistakes when pulling orders. The amount of the bonus depended on numerous variables. The claimant had earned quarterly bonuses varying from \$950 to \$2300.

On November 11, 2014 the claimant submitted an order she picked to the quality control person for final review. The quality control person found an error and documented the error on a paper log. When the quality control person left the podium for lunch, the claimant took the paper log, folded it, and left with it in her basket. The claimant removed the document hoping the error would not affect her ability to receive her bonus. The employer watched the video recording of the claimant's actions and terminated her on November 11, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code § 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).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. She intentionally took the paper for her own purposes. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's November 26, 2014 (reference 01) decision is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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