

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN C WINEFELDT
Claimant

APPEAL NO. 12A-UI-13251-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 10/07/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 24, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 6, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Kristen Moore participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer from September 20, 2011, to October 2, 2012. His last assignment was as a general laborer at Innovative Lighting.

The claimant had problems with another temporary employee at Innovative Lighting bossing him around even though the employee was not a supervisor. He had complained to his supervisor about the employee, but the problems continued.

When the claimant reported to work on October 2, 2012, he went to the supervisor on duty and complained again about the employee. The supervisor on duty told the claimant that since he had problems taking orders from other employees, he should go home.

The claimant followed the supervisor's instructions and left work. He called the employer and left a message explaining what had happened. On October 3, 2012, the employer discharged the claimant for leaving work before the end of 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant's testimony was very credible and outweighs the employer's witness' testimony that he walked off the job. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated October 24, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs