

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID E LONG
Claimant

APPEAL NO: 10A-UI-09068-S

**ADMINISTRATIVE LAW JUDGE
DECISION**

JELD-WEN INC
Employer

OC: 03/14/10
Claimant: Appellant (1)

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 June 17, 2010, reference 02, that held he was discharged for misconduct on May 21, 2010, and benefits are denied. A hearing was held in Des Moines, Iowa on August 4, 2010. The claimant participated. Chris Juni, Safety/HR Manager, Travis Smith, Production Manager, and Wes Terpstra, employee, participated for the employer. Employer Exhibit 1 was received as evidence.

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 witnesses, and having considered the evidence in the record, finds: The claimant began employment in March 1994, transferred to the Grinnell plant on April 26, 2010, and last worked as a full-time door inspector on May 21, 2010. The employer suspended the claimant from employment on May 21, and discharged him on May 26 for willful destruction of company property that is a violation of the employer standards of conduct.

On May 21, employee Terpstra was holding a door that had a small dent that was repairable. The claimant observed the dent, approached the door with a hammer, and struck it causing another dent, stating, now it's not fixable. Terpstra reported the incident to a supervisor who conducted an on-site questioning of those involved that included the claimant. Claimant stated he tripped with the hammer in his hand, and he accidentally dented the door while trying to break his fall. Manager Smith suspended the claimant for three days pending further investigation. The employer determined the door was not repairable.

The claimant was called in on May 26, and discharged for abuse of company property. During the hearing, the claimant stated he had been complaining about the quality of work of the assemblers that resulted in door defects that were brought to him. Claimant admits he was frustrated about the door defects that were brought to him for correction.

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 established that the claimant was suspended on May 21, and discharged for misconduct in connection with employment on May 26, 2010, for violation of company policy by abusing property.

The employer offered an eye witness to the claimant deliberately striking the door stating, now, it's not fixable. The witness had no motive to falsify. A reasonable inference is that claimant

approached the door with frustration, because of other door defect issues that he had complained about, and he struck it in order to avoid repair. There is no rationale for intentionally damaging company property that constitutes job disqualifying misconduct.

DECISION:

The department decision dated June 17, 2010, reference 02, is affirmed. The claimant was suspended/discharged for misconduct effective May 21, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs