

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANE K WILLIAMS**  
Claimant

**APPEAL NO: 11A-UI-14495-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE CROWN GROUP INCORPORATED**  
Employer

**OC: 10/09/11**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's October 27, 2011 determination (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Tom Kuiper, a TALX representative, appeared on the employer's behalf. Jason Garcia, the operations manager, and Jill Atwater, the human resource manager, testified on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in January 2011. He worked as a full-time forklift operator. When he was hired, he received a copy of the employer's handbook. One of the policies in the handbook informed him he could be discharged immediately if he punched in or out another employee's timecard. The claimant understood employees could be discharged for punching out another employee, but did not realize this was a written policy.

On October 5, an employee left work around 1:30 p.m. She called and talked to the claimant around 4 p.m. She asked him to check her timecard to check if she had not punched out. If she had not punched out, she asked him to punch her out.

The employer's video camera recorded the claimant going to the time clock and punching out a timecard around 4 p.m. The claimant did ask a supervisor about punching out the employee's timecard even though he punched her out at 4 p.m. and she had left around 1:30 p.m.

On October 7, the employer talked to the claimant about the October 5 timecard incident. He admitted he had punched out another employee's timecard. The employer discharged him for violating the employer's policy.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant told the employer he knew he could be discharged if he punched out the timecard for another employee. Without the claimant's testimony as to why he did punched out the other employee when she had left more than two hours earlier, the evidence establishes that he committed work-connected misconduct on October 5, 2011. Therefore, the claimant is disqualified from receiving benefits as of October 9, 2011.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he has received since October 9, 2011, will be remanded to the Claims Section to determine.

**DECISION:**

The representative's October 27, 2011, determination (reference 04) is reversed. The employer discharged the claimant for an October 5, 2011 incident that constitutes work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 9, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw