

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARRY JAMES
Claimant

APPEAL NO: 09A-UI-11930-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCIONA WINDPOWER NORTH AMERICA
Employer

OC: 06-21-09
Claimant: Respondent (1)

Section 96.5-2-a –Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 12, 2009, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 16, 2009. The claimant participated in the hearing. Lisa Sherman, Human Capital General Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time erection and commissioning technician for Acciona Windpower North America from April 19, 2008 to June 19, 2009. He was discharged on June 19, 2009, for falsifying expense reports. Expense reports are to be submitted on a monthly basis and the claimant submitted some expense reports on time but submitted several expense reports for late 2008 through April 2009 on May 10, 2009. The employer reviewed the charges, which is what caused the delay in discharge and the employer found several charges that had already been submitted. Additionally, there were some unauthorized purchases such as cold weather gear and a GPS device plus the service agreement for it. The claimant had given his secretary the receipts after he had been gone for three months. He failed to complete the reports on a monthly basis because he moved around a lot. When he turned in the expense reports, he told the employee in accounting that he may have turned in duplicates and was told not to worry about it. He testified that he did not intentionally turn in duplicate receipts.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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 employer has the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000). The claimant was discharged June 19, 2009, for falsifying expense reports that were turned in May 10, 2009. The employer contends the claimant's falsification was intentional but the evidence shows that although the claimant failed to turn in his reports on time he did not intentionally falsify his expense reports and told the accounting department there may be duplicate receipts in the reports he gave them. Misconduct must be substantial in nature to support a disqualification from unemployment benefits. Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1982). The focus is on deliberate, intentional, or culpable acts by the employee. Id. The claimant may have submitted receipts twice and may have requested reimbursement for unauthorized items but the employer made the final determination as to what would or would not be reimbursed. Consequently, the administrative law judge must conclude that his actions do not rise to the level of disqualifying job misconduct as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The August 12, 2009, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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