

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

R T HARRIS
Claimant

APPEAL NO. 06A-UI-10101-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

OC: 09/03/06 R: 02
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, RT Harris, filed an appeal from a decision dated October 11, 2006, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on October 31, 2006. The claimant participated on his own behalf. The employer, Winnebago, participated by Personnel Supervisor Gary McCarthy. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

RT Harris was employed by Winnebago from July 12, 2004 until September 18, 2006. He was a full-time assembler. During the course of his employment he received a copy of the employee handbook.

On September 15, 2006, the claimant was given an evaluation by Supervisor Doug Pride. His absenteeism had been at unacceptable levels during the evaluation period and he would not be receiving a raise. The claimant was upset and refused to sign the evaluation because he did not agree with it.

The employee handbook considers refusal to sign evaluations or other company documents to be insubordination and subject to disciplinary action of a one-day suspension. The claimant was advised of this and also told that signing the evaluation did not mean he agreed with it, only that he had received it and it had been discussed with him. He still refused to sign.

The claimant was given the weekend to consider the matter and he met with Mr. Pride and Manager Tim Parcher on Monday, September 18, 2006. He still declined to sign the evaluation and was issued a disciplinary action of a one-day suspension. Mr. Harris also refused to sign the warning, even though he was told it would place his job in jeopardy. He still refused to sign.

Mr. Pride and Mr. Parcher consulted with Personnel Supervisor Gary McCarthy who concurred with the decision to discharge and the claimant was notified by Mr. Parcher he was fired.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant had been advised his job was in jeopardy as a result of his refusal to sign the evaluation and the disciplinary action notice. Even though the employer explained to him that signing the document did not mean he agreed with it, and that failure to sign was insubordination and grounds for discharge, he still refused. The failure to acknowledge the receipt of a written reprimand by signing it constitutes job misconduct as a matter of law. Green v. IDJS, 299 N.W.2d 651 (Iowa 1980). The claimant is disqualified.

DECISION:

The representative's decision of October 11, 2006, reference 02, is affirmed. RT Harris is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs