

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RICHARD BANWELL
Claimant

APPEAL NO. 14A-UI-10834-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERIDIAN MANUFACTURING
Employer

**OC: 09/21/14
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Richard Banwell (claimant) appealed an unemployment insurance decision dated October 7, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he was discharged from Meridian Manufacturing (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2014. The claimant participated in the hearing. The employer participated through Marla Smith, Human Resources Manager.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked full-time in production/maintenance from January 22, 2010, through August 26, 2014, when he was discharged for tampering with a co-worker's private property. On Saturday, August 23, 2014, he was upset with co-worker Jeff who parked his vehicle next to the street, which impeded a driver's view when exiting the company parking lot. The claimant admits he was a "little rough" with Jeff in that he spoke harshly to him about it.

The claimant returned to work but later that day learned that Jeff was leaving the company. He then went and put a zip tie underneath Jeff's vehicle on his drive shaft, which the claimant contends will not hurt the vehicle but will make a clicking noise when the vehicle is driven. Jeff subsequently realized what happened and reported it to the employer. The claimant was questioned on the following Monday and admitted he had done that. He was discharged on the following day for creating a hostile work environment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on August 26, 2014, after he tampered with a co-worker's private property. He considered putting a zip tie on the co-worker's drive shaft a harmless prank but the co-worker apparently did not view it in the same light. A prank can easily cross the line from amusement to criminal activity when someone's private property is altered. Additionally, since the claimant had just yelled at this co-worker, it is doubtful he did it for harmless fun. Even though this was an isolated incident, work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated October 7, 2014, (reference 01), is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs