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

JOSHUA T HOWE
Claimant

APPEAL NO: 11A-UI-00612-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINEGARD COMPANY
Employer

**OC: 12/12/10
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 4, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Carrie Kale, an employee relations representative, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 May 2009. He worked as a full-time warehouse operator. The claimant received information about the employer's violence-free workplace policy. The policy informs employees they can be discharged if they threaten or display threatening behavior to employees at work or in areas the employer controls.

On December 2, 2010 around 5 a.m., the employer's security cameras verified employees' reports that the claimant was at the employer's workplace even though he was not scheduled to work. The claimant appeared to be waiting for someone. When the claimant went to the courtyard, he appeared visibly angry and flipped over the employer's octagon-shaped picnic table. Employees in the courtyard saw the claimant do this. The claimant then went to the parking lot where he verbally confronted a co-worker who was dating or going with the claimant's girlfriend or ex-girlfriend. (Both worked for the employer.) When the female told the claimant to leave, he did and went back to the employer's plant. A supervisor on duty then told him to go home because he was not scheduled to work.

When the plant manager came to work, he reviewed the security tapes and concluded the claimant violated the employer's violence-free workplace policy. The employer discharged the claimant on December 6, 2010.

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).

Based on the evidence presented during the hearing, the claimant violated the employer's violence-free workplace policy the morning of December 2, 2010. The employer established that the claimant committed work-connected misconduct. As of December 19, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's January 4, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 19, 2010. 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.

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Debra L. Wise
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs