

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT PITLOCK
Claimant

APPEAL NO: 13A-UI-06114-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

OC: 04/21/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Robert Pitlock (claimant) appealed an unemployment insurance decision dated May 10, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Kwik Trip, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Des Moines, Iowa on July 8, 2013. The claimant participated in the hearing. The employer participated through John Rewerts. Employer's Exhibits One through Three were admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time tobacco outlet plus store leader from April 10, 2006 through April 25, 2013 when he was discharged for falsifying employment documents. The employer's core values are honesty and integrity and the code of conduct policy provides that falsifying employment documents will result in immediate termination.

The claimant was responsible for completing his employees' performance appraisals by February 22, 2013. He completed the computer portion of the evaluations by the due dates and the three employees received their raises but he did not review the evaluations with his employees. On April 15, 2013, he reviewed one employee's evaluation with her but asked her to date the evaluation as having taken place on February 22, 2013. The employee questioned it and spoke to the district manager about it.

The claimant was already on probation since November 2012 for not meeting company standards with organization, communication and team leadership. He could have dated the evaluation review with the correct date without consequence to himself or to the employee. The

claimant could have also asked his district leader about it if he had any questions but failed to do so.

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.

Iowa Code § 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 to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on April 25, 2013 for violating the employer's code of conduct policy. The definition of misconduct focuses on whether the employee's conduct was deliberate, intentional or culpable. *Lee v. Employment Appeal Board*, 386 N.W.2d 552 (Iowa App. 1986). While the claimant maintains he did not have a wrongful intent, he intentionally falsified employment records and directed his subordinate to do the same. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. Benefits are denied.

DECISION:

The unemployment insurance decision dated May 10, 2013, 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/css