

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA SANDERS
Claimant

APPEAL NO. 13A-UI-09998-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CUSTOM-PAK INC – LP2
Employer

OC: 07/28/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Laura Sanders (claimant) appealed an unemployment insurance decision dated August 22, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Custom-Pak, Inc. – LP2 (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 10, 2013. The claimant participated in the hearing with representative Nick Heid. The employer participated through Andrea Lawrence, Randy Determan, David Wiest and Jim Johnson.

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 was employed as a full-time machine operator from June 18, 1990 through July 30, 2013. She was discharged for possessing and consuming alcohol on company property while on duty which is a violation of policy. On June 27, 2013, the claimant was in line near the time clock waiting to punch out for the day. She pulled a bottle of strawberry flavored rum out of her purse and offered it to co-employees Lisa Wilden, Kim Bergmann and Lonnie Scott. The co-employees declined the offer and the claimant then took a sip of the alcohol and put it back in her purse. The co-employees reported the incident to the employer on July 29, 2013 and the claimant was suspended. She was questioned on the following day and admitted she took a "sip" of alcohol.

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 for possessing and consuming alcohol while on duty. She admitted drinking alcohol but does not feel termination was warranted because she was a long-term employee. However, possessing and consuming alcohol while working is grounds for termination, even in the case of an isolated incident. 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 August 22, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css