

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLIE L HART
Claimant

APPEAL NO. 12A-UI-13386-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRO INC
Employer

OC: 09/30/12
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Charlie Hart, filed an appeal from a decision dated October 29, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 11, 2012. The claimant participated on his own behalf. The employer, Centro, participated by Human Resources Assistant Tracy Lennon, Quality Leader Dawn Schulte and Corporate Human Resources Leader Rhonda Griffan.

ISSUE:

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

FINDINGS OF FACT:

Charlie Hart was employed by Centro from September 5, 2001 until September 28, 2012 as a full-time quality assurance technician. During the course of his employment he received a suspension in October 2009 for failing to properly test and/or document test results on products. A final written warning was given for the same issue on May 3, 2012. He was notified his job was in jeopardy.

On September 18, 2012, a customer informed Quality Leader Dawn Schulte it had received products which were not within specifications. The thickness had to be a minimum of 2 millimeters. Ms. Schulte and other inspected the 34 tanks in that lot and found all of them to be outside of the required specifications.

Information engraved on the tanks themselves indicated the batch, the shop and the inspector. The documentation for the one inspected by Mr. Hart indicated a thickness of 3 millimeters and the employer's retesting showed 1.81 millimeters. The investigation was concluded on Friday, September 21, 2012.

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.

The claimant had been advised his job was in jeopardy as a result of his poor job performance. It was his responsibility to accurately test the products and record the results correctly. He failed to do this. Whatever the cause of the problem, the claimant's inaccurate testing or recording of the products resulted in recalls from customers, reworking the products or discarding them, and, in the present case, rendered 34 tanks unusable. The employer has the right to expect employees to perform their job functions to the best of their ability. The claimant's failure to do so is conduct not in the best interests of the employer. He is disqualified.

DECISION:

The representative's decision of October 29, 2012, reference 01, is affirmed. Charlie Hart is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css