

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESUS JIMENEZ

Claimant

APPEAL NO: 09A-UI-16626-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY

Employer

OC: 10/18/09

Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's November 3, 2009 decision (reference 01) that concluded he was not qualified to receive benefits, and the employer's account was not subject to charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on January 14, 2010. The claimant participated in the hearing. Tom Kuiper, a TALX representative, appeared on the employer's behalf. Aaron Vawter, a human resource coordinator, testified on the employer's behalf. Ike Rocha interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 31, 1994. He worked full time. The employer has a zero tolerance policy for employees who take product without paying for it. Prior to October 16, 2009, the claimant's job was not in jeopardy.

On October 16, 2009, two supervisors saw the claimant put meat inside his jacket and leave the plant. The employer stopped the claimant and asked him to go to the office. The claimant admitted he took the meat and had not paid for it. The claimant acknowledged he made a mistake when he took the meat for a friend. The employer discharged the claimant on October 16, 2009, because he attempted to steal product from the employer.

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 section 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).

The claimant knew employees were not allowed to take any product without paying for it. The claimant's attempt to take product out of the plant without paying for it on October 16, 2009; constitutes an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The claimant committed work-connected misconduct. As of October 18, 2009, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 3, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 18, 2009. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs