

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD L BRUCE III**  
Claimant

**APPEAL NO. 10A-UI-03397-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRO INC**  
Employer

**Original Claim: 07/12/09  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Ronald Bruce, filed an appeal from a decision dated February 25, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 22, 2010. The claimant participated on his own behalf. The employer, Centro, participated by Administrative Assistant Tracy Lennon, Business Process Owner Phil Hingst, and Corporate Human Resources Leader Rhonda Graffin. Exhibits One, Two, Three, Four, and Five were admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Ronald Bruce was employed by Centro from December 5, 2007 until February 5, 2010 as a full-time product inspector. He received a copy of the employee handbook, which sets out the expected employee conduct. The policy states an employee may be subject to discharge for unsatisfactory job performance, which includes failure to follow proper work procedures.

The claimant's job as an inspector is to "dunk test" fuel tanks. The tank is placed in water and a machine lowers the tank below the surface, where it is to remain for 120 seconds. There is a button on the machine which will abort the test in case there is anything wrong with the tank. If the product passes the 120 second dunk test, it is put on a rack and certified as having passed the test.

On February 4, 2010, Business Product Owner Phil Hingst and two other supervisors, Mark Hallet and Greg Young, observed the claimant abort the dunk test on three separate tanks before the 120 seconds had passed. He then put the tanks on the rack and filled out documentation that all had passed the required amount of submersion. Mr. Bruce was taken to the conference room and interviewed, at which time he had admitted to aborting the dunk tests before the time was up. He was sent home and told to report to Mr. Hingst the next day. When

he reported on February 5, 2010, he was discharged for failing to perform the requirements of his job.

**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 admitted he had aborted the duration of the dunk test on three tanks but maintained it was because they had failed and he repaired them. But, three eyewitnesses all confirmed he had dunked the tanks less than the required time and still put them on the racks and certified they had passed the required submersion time. Mr. Bruce's argument is that the employer could not specify which particular tanks had not been tested properly, but this is not necessary. Eyewitness testimony establishes the submersion was not done for the required time and the tank was not put aside for repair but was placed on the rack reserved for those tanks which had passed the test.

The record establishes the claimant did not perform the tests as required and falsified the results. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of February 25, 2010, reference 01, is affirmed. Ronald Bruce is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw