

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

THOMAS L CLOSE
705 ROSE
DUBUQUE IA 52001

EAGLE WINDOW & DOOR INC
c/o AMY TURNER
PO BOX 1072
DUBUQUE IA 52004

Appeal Number: 05A-UI-11173-DWT
OC: 10/02/05 R: 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Eagle Window & Door, Inc. (employer) appealed a representative's October 20, 2005 decision (reference 01) that concluded Thomas L. Close (claimant) was qualified to receive unemployment insurance benefits, and the employer's account could be charged because the employer discharged the claimant for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2005. Prior to the hearing, the employer contacted the Appeals Section to inform the administrative law judge the employer was not going to participate in the hearing. Even though the employer was the appealing party, the employer did not want to withdraw its appeal. The claimant participated in the hearing. Based on the evidence, the administrative record, the arguments of the claimant, 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 November 30, 1998. On March 17, 2005, the claimant went on a medical leave of absence for a non-work related medical condition. On September 15, 2005, the claimant gave the employer his doctor's statement that restricted the claimant from working for a month.

On September 16, 2005, the employer sent the claimant a letter indicating he had exceeded the amount of time off the employer allowed and was discharged as of September 16, 2005. The letter further informed the claimant that if he disagreed with the information in the letter, the claimant had to contact the employer by September 20, 2005. The claimant presented the employer with another doctor's statement on September 19, 2005, and asked to return to work. This doctor's statement indicated the claimant was released to return to work on September 20 with no work restrictions. The employer did not accept the claimant's doctor's September 19, 2005 release.

The employer's human resource representative contacted the claimant's doctor's office without the claimant's authorization. The doctor's office may have given the human resource representative information without the claimant's authorization. On September 19, the human resource representative informed the claimant he was terminated and the doctor's office gave information as to the medication the claimant had been prescribed.

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 §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 employer discharged the claimant on September 19, 2005, for reasons that do not constitute work-connected misconduct. The employer initially discharged the claimant because he was unable to work and exceeded the employer's absenteeism policy. After the claimant presented the employer with a new medical statement on September 19, the employer's representative obtained unauthorized medical information. The representative decided the claimant was still unable to work return and would not accept the claimant's doctor's September 19 medical release to work.

DECISION:

The representative's October 20, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of October 2, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/tjc