

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEREK A HANSEN
Claimant

APPEAL NO: 13A-UI-07527-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

OC: 06/02/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 21, 2013 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. A hearing was initially held on July 25, 2013. The claimant did not participate at the July 25 hearing, but the employer did.

The July 25 hearing was reopened and another hearing was scheduled on September 5, 2013. The claimant participated at the September hearing. Amy Mosley, a human resource business partner, and Andy Young, an outbound group leader, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in May 2010. The claimant worked as a full-time outbound warehouse worker.

The employer requires employees to stay at their work station until a bell rings. When a bell rings they can go on their break. On March 26, 2013, the claimant received a final written warning for leaving his work area before a scheduled break. The employer considers this a reliability issue.

After the claimant received the March 26 final written warning, the employer talked to him on March 29, April 11 and May 31 when he again left his work area before his scheduled break. On May 31, the employer warned the claimant that if he left before a scheduled break again, he would be terminated. The claimant left before a scheduled break to use the restroom.

On June 5, the claimant again left for a break early. The employer discharged the claimant on June 7 for repeatedly leaving his work area before a scheduled break.

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. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known that if he left for a break early, even if it was to use the restroom, he could be discharged. By leaving a few minutes early to use the restroom, the claimant effectively made his break longer than the employer allowed. Since the claimant left just a few minutes before his break to use the restroom, he could have waited until the scheduled break to use the restroom. After the employer warned him several times, the claimant's decision to leave his work area before a scheduled break amounts to an intentional and substantial disregard of the employer's break policy. The claimant committed work-connected misconduct. As of June 2, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's June 21, 2013 determination (reference 02) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of June 2, 2013. 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 is exempt from charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css