

Mr. Sanders later recanted his story by e-mail at 12:08 a.m. on June 8th admitting that he lied to avoid his partner, Chad, getting into trouble. (10:15-10:20; 10:42-10:58; 11:40-11; 12:30-12:43; 16:28-16:35; 19:37-19: 56, 31:45-31:56; Exhibit 1, Exhibit 3) Chad already had previous safety violations against him, and Chad had been part of the lockout procedure the night before. (10:54-11:00; 11:25-11:43; 42:15-42:32; 42:44:24-44:36) The Claimant apologized and also admitted that the lock was not, in fact, broken when he found it. (14:12-14:20; 38:18-38:20; 43:54-43:56)

The Employer terminated Ms. Sanders for his dishonesty, which could have resulted in serious consequences for the Employer. (9:32-10:20; 10:30-11:03; 30:40-30:54; 31:18-31:57; 37:41) There were no other disciplinary actions taken against the Claimant, except for a verbal warning. (28:33-29:12; 38:07; 50:48)

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5(2)(a) (2013) provides:

Discharge for Misconduct. If the department finds the individual has been discharged for misconduct in connection with the individual's employment:

The individual shall be disqualified for benefits until the individual has worked in and been paid wages for the insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The Division of Job Service defines misconduct at 871 IAC 24.32(1)(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 the 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 Iowa Supreme court has accepted this definition as reflecting the intent of the legislature. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665, (Iowa 2000) (quoting Reigelsberger v. Employment Appeal Board, 500 N.W.2d 64, 66 (Iowa 1993).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 NW2d 661 (Iowa 2000).

The record establishes that the Claimant was responsible for complying with safety procedures as set forth by the Employer. When Sanders found the lock had already been removed before he got to the north elevator, he admittedly and purposefully fabricated additional circumstances, i.e., intentionally breaking a lock, in order to protect Chad, his friend. It wasn't just a matter of the Claimant's lying to deflect blame from Chad, he furthered the lie by placing the blame on another employee - Jeff. His motivation that Jeff and his supervisor were 'playing games' does not justify his dishonesty. He would have been better off to report that the lock was improperly removed and let repercussions fall where they may. Rather, his decision to 'come clean' half a day later uncovered his dishonest behavior, which was clearly a "...deliberate act or omission by a worker which constituted a material breach of the duties and obligations arising out of such worker's contract of employment..." See, 871 IAC 24.32(1)"a", supra.

The Employer has a right to expect integrity and civility among its employees, particularly involving such an important issue as safety. The Employer shouldn't be burdened with understanding and figuring out that the Claimant lied; why he lied; and why he is now coming forth with the truth, if it is the truth. All the Employer should be concerned with is that Mr. Sanders is fulfilling his job responsibilities and complying with the safety standards. Based on the Claimant's behavior, that trust has now been broken. He can no longer be trusted to protect the Employer's interests. Sanders' argument that he had no other infractions against him, does not absolve him of his culpability; nor does that the fact that he 'came clean' with the truth after lying. While this may have been a single incident, it was nonetheless an egregious act. The court in White v. Employment Appeal Board, 448 N.W.2d 691 (Iowa App. 1989) held that even a single act of lying to an employer to cover-up a workplace error can itself be misconduct. Based on this record, the Board would conclude that the Employer satisfied their burden of proof.

DECISION:

The administrative law judge's decision dated August 12, 2014 is **REVERSED**. The Employment Appeal Board concludes that the claimant was discharged for disqualifying reasons. Accordingly, he is denied benefits until such time he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(2)"a".

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