

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIM L DE JOODE
Claimant

APPEAL NO: 14A-UI-01889-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS DEVELOPMENT
Employer

OC: 01/19/14
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 12, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the March 11 hearing. Emily Herron, the human resource director, and Elisabeth Lafever, the operations manager, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. 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 October 2012. The claimant worked as a full-time production employee. The employer's standard of conduct informs employees that the employer does not tolerate abusive behavior, physical or verbal. The employer does not want profanity used at work.

During his employment, the claimant's supervisor, J.D., verbally warned the claimant several times not to use profanity at work. Lafever also talked to the claimant about using profanity at work. She warned him that he had to stop this type of language at work.

The claimant had a bad day on January 18, 2014. He experienced a lot of interference when he was trying to get the laundry done. He was trying to get everything done so he could go home. When work did not smoothly, the claimant became frustrated and upset on January 18, 2014. With clients in close proximity, the claimant yelled, "I am sick of this shit. ...machines that fucking break down.... This is bull shit and I'm sick of it." Lafever asked the claimant to calm down and to stop swearing. The claimant responded by saying, "This is bullshit." He then proceeded to tell Lafever everything that was wrong. He expressed his frustration by using profanity. After the claimant finished yelling and swearing, he punched out for lunch. A short

time later, he came back and told Lafever he had to go home early because he could not work anymore that day. (Employer Exhibit One.)

On January 22, the employer discharged the claimant for his inappropriate conduct on January 18, 2014.

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 facts indicate the claimant had been warned that using profanity at work was inappropriate and he needed to stop. On January 18, the claimant used profanity when he was frustrated and became very upset. Even though he was venting, he released his frustration by swearing loud enough so clients could hear him. Since he had been told to stop using profanity before, his January 18 outburst amounts to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from him. The claimant committed work-connected misconduct. As of January 19, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's February 12, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of January 19, 2014, the claimant is disqualified from receiving unemployment insurance benefits. 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/css