

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW P HELLBERG**  
Claimant

**APPEAL NO. 10A-UI-07984-SW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FISHER CONTROLS INTERNATIONAL LLC**  
Employer

**OC: 05/02/10  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 28, 2010, reference 01, that concluded he was discharged for work-connected misconduct. Hearings were held on July 7 and 14, 2010, in Des Moines, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Dorothy Hellberg. Denis Albright participated in the hearing on behalf of the employer with witnesses, Lynn Jensen and Bryan Anderson. Exhibits One through Five were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as a utility worker in the shipping department from October 4, 2004, to May 5, 2010. He was informed and understood that under the employer's work rules, destruction of materials, equipment, or other property of the company, deliberately and without prior authorization, was prohibited. The claimant's supervisor was Bryan Anderson. Lynn Jensen was the manager of shipping and customer service.

A slatted protective plastic curtain surrounds the shipping area. The curtain is there to block any stray nails and staples used in the shipping process.

At about 2:30 p.m. on April 30, 2010, the claimant decided without asking any supervisor that he would cut down a 10-foot section of the curtain to improve air flow in the shipping area because he thought it was hot. He did not think it was a big deal because some of the sheeting was rolled up over the bar from which the curtain was suspended and a few of the slats were missing.

Anderson and Jensen observed the claimant up on a conveyer belt cutting down the curtain with a utility knife. Jensen instructed Anderson to order the claimant to stop cutting down the curtain.

Anderson told the claimant that he was to stop what he was doing, clean up what he done, and get back to work. While the claimant may have said something about finishing later, Anderson never agreed that the claimant should cut down any more of the curtain.

After cleaning up what he had cut down, the claimant went back to work for a while. At the end of the day, the claimant went back and cut down nearly all of the rest of the curtain.

The following Monday, May 3, management discovered the curtain had been cut down. The claimant was suspended. He was discharged on May 5, 2010, for violating the employer's work rule regarding willful destruction of property.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. While the claimant may have said something about "finishing later," he never told Anderson that his plan was to cut down the rest of the current and Anderson never agreed to the plan.

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. Even the claimant's cutting the first 10-foot section was a willful destruction of company property without permission. The fact that some of the curtain was rolled over the top and had some slats missing does not justify cutting the curtain without permission.

**DECISION:**

The unemployment insurance decision dated May 28, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw