

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA J MCDANEL
Claimant

APPEAL NO: 14A-UI-03799-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 03/02/14
Claimant: Respondent (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The employer appealed a department decision dated April 1, 2014, reference 01, that held the claimant was not discharged for misconduct on February 28, 2014, and benefits are allowed. A telephone hearing was held on April 29, 2014. The claimant participated. Ruth Caster, Office Manager, participated for the employer. Employer Exhibits 1 & 2 were received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: Employer is a temporary employment firm. The claimant was hired on assignment at Lee Container on October 15, 2013, and last worked for the employer as a full-time bottle inspector on February 28, 2014. A Lee Container represented the employer about claimant's job performance on February 27.

Manager Caster questioned claimant about an issue with bad bottles. Claimant explained there was a problem with a machine failing to operate correctly that was producing them. She followed policy by grinding the bad bottles and she let the Lee Container personnel know about the problem. Claimant showed Caster her scrap sheet that showed numerous bottles had been ground as required.

Claimant reported to work the next day and worked a brief period before she was called to Caster's office. Caster had been told by Lee Container to remove claimant from the assignment, and Caster terminated claimant for that reason.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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

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

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

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 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 administrative law judge concludes the employer has failed to establish claimant was discharged for misconduct in connection with employment on February 28, 2014.

The employer witness did not personally observe claimant failing to properly do her inspection job and there is no evidence claimant allowed bad bottles to pass her inspection. It appears the primary problem was a machine malfunction that caused numerous bad bottles to be produced and then ground when inspected by claimant. Job disqualifying misconduct is not established.

DECISION:

The department decision dated April 1, 2014, reference 01, is affirmed. The claimant was not discharged for misconduct on February 28, 2014. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs