

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 05A-UI-08004-DWT
OC: 06/19/05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Excel Corporation (employer) appealed a representative's July 22, 2005 decision (reference 01) that concluded Noel Saucedo (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 22, 2005. The claimant participated in the hearing. Rosa Paramo-Ricoy interpreted the hearing. Mindy Hadley, the assistant human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on January 5, 2004. The claimant worked as a full-time production worker in the livestock department. The employer provides training on how employees need to handle animals at work. If a government official observes an employee abusing an animal, the employer's operation can be shut down.

Prior to June 20, 2005, the employer had not received any complaints about the way the claimant handled animals. The claimant handles animals in the way the employer has trained him. The claimant and another employee, P., do not work side-by-side. P. works in an area where he cannot directly see the claimant working.

On June 20, the employer received a report from P. that he saw the claimant mishandle hogs with an electric prod. The claimant denied P.'s allegations. The employer considered P.'s complaint more credible because of the serious consequences if a government official observes an employee mishandle an animal. The employer discharged the claimant on June 21, 2005.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The main issue in this case is credibility. The employer's witness had no firsthand information. The claimant's testimony is credible and must be given more weight than the employer's reliance on unsupported hearsay information from witnesses who did not testify at the hearing. While the record indicates the seriousness of any animal abuse, the evidence does not establish that the claimant mishandled any animal. Based on the employer's conclusion, the employer may have had compelling business reasons for discharging the claimant. A preponderance of the credible evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of June 19, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's July 22, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of June 19, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/tjc