

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICARDO C VALLADARES**  
Claimant

**APPEAL NO. 090-UI-17549-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**Original Claim: 07-26-09  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 19, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 4, 2010. The claimant did participate. The employer did participate through Cheryl Hughlette, Human Resources Manager.

**ISSUE:**

Was the claimant discharged for work-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a production worker/laborer, full-time, beginning July 24, 2001, through July 27, 2009, when he was discharged.

On July 22, 2009, the claimant was seen by three management employees reaching his hands inside the point of operation of a box-forming machine to clear a jam. The claimant knew that he was not to reach into the point of operation of the machine but did so anyway because he wanted to keep the line running. The employer is required to comply with OSHA regulations, which strictly prohibit any employee from reaching into the point of operation of a machine because of the serious injury that can result from such action. The claimant was not an employee trained to fix or repair the machines. The claimant was not qualified to lockout or tagout any machine. By reaching into the machine, the claimant put his own safety in danger.

The claimant had never been written up or disciplined for getting behind on getting boxes made, so he had no fear that stopping the line would result in him being disciplined. The claimant had been trained that if the box forming machine jammed, he was to contact a supervisor for help, not to attempt to fix or clear the jam from the machine himself. Because of the serious safety violation, the claimant was discharged.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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 claimant knew that he was to comply with the plant safety rules, including the rule that he not attempt to fix the box-forming machine or that he reach into the machine's point of operation to clear a jam. The claimant violated the employer's safety rule, which could have resulted in a severe injury for him and possible OSHA citations for the employer. The claimant's good intentions are not good cause to violate a clear, known safety rule. Under these circumstances the claimant's actions are sufficient misconduct to disqualify him from receipt of unemployment insurance benefits. Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). Benefits are denied.

**DECISION:**

The August 19, 2009, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Inasmuch as no benefits were claimed or paid, no overpayment applies.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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