

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARLOS M DOWNS**  
Claimant

**APPEAL NO. 14A-UI-03268-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEERY BROTHERS INC**  
Employer

**OC: 01/19/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated March 18, 2014, reference 03, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on April 17, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Jackie Nolan participated in the hearing on behalf of the employer with a witness, Mike Britt.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a car detailer from September 3, 2013, to January 3, 2014. The claimant received a warning on December 19, 2013, about tardiness from his supervisor, Mike Britt.

The claimant reported to work on time on January 2, 2014, and worked his whole shift that day. He also reported to work on time on January 3. He worked detailing four cars and filled out tickets for four hours of work. He also helped Britt with washing vehicles for about three hours, but did not fill out the tickets for that work.

On January 4, Britt sent a text to the claimant informing him that he had reviewed the time records for Friday and found the claimant's lack of production unacceptable because there was only four hours of work recorded on the tickets for the day. Britt told the claimant that he was discharged and could come in to pick up his final check.

**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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. Britt had no documents to back up his claim that the claimant was 15-45 minutes late for work on January 2, that he had “walked the claimant out” before the end of his shift that day, and that the claimant did not work on January 4—all of which the claimant very credibly denies. The claimant’s testimony and the text messages that he read outweigh Britt’s testimony. The claimant was discharged because Britt mistakenly believed he had not worked productively on January 3. No willful and substantial misconduct has been proven in this case.

**DECISION:**

The unemployment insurance decision dated March 18, 2014, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs