

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GEOFFREY W DEMARIA**  
Claimant

**APPEAL NO. 08A-UI-10490-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 10/05/08 R: 02**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Geoffrey Demaria, filed an appeal from a decision dated November 3, 2008, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 24, 2008. The claimant participated on his own behalf. The employer, Pella, participated by Human Resources Representative Pam Fitzsimmons, Quality Technician Vickie Vold, Facilitator Kevin Rees, Molder/Trainer Bruce Nolin, and Production Manager Caleb Klein. Exhibits One, Two, and Three were admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Geoffrey Demaria was employed by Pella from June 4, 2001 until September 30, 2008 as a full-time processor. He received training on the machine he was to operate, including the way to set up jobs according to the job specifications, check the settings, and produce a “test run” for quality assurance purposes. On July 9, 2008, he received his first Class 2 warning for “bypassing known/documented quality process.” The document, which he signed, notified him another Class 2 warning in the next 24 months would be grounds for discharge.

On September 17, 2008, the claimant again ran parts that were outside the specifications. He notified the quality technician who, along without another manager, found all the parts Mr. Demaria had made that shift were not within specifications. The claimant was suspended effective September 19, 2008, while the employer did an investigation. When he was interviewed, the claimant tried to assert the first shift operators had been responsible for the bad set up. However, first shift had run an entirely different part and it was the responsibility of the claimant to set up the machine for the specifications for the new part. It would also have been his job to check the settings at the beginning of his shift even if the parts being run were the same type being produced by the prior shift.

The claimant was found to have failed to properly set up the machine in accordance with the specifications, which was a second Class 2 violation. He was discharged September 30, 2008, by letter.

### **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 claimant had been advised his job was in jeopardy as a result of his failure to properly set up the machine to the required specifications. A little more than two months later he again produced a number of parts that were not within the required specifications. He made certain assumptions and made "short cuts" in setting up the machine and apparently did not do all the measurements required at the beginning of the run to make sure the parts were within the specifications. When questioned, he tried to shift the blame to the workers on another shift. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of November 3, 2008, reference 01, is affirmed. Geoffrey Demaria is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw