

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES WALKER
Claimant

APPEAL NO: 14A-UI-11302-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 10/12/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 30, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the November 19 hearing. Emily McMahon, the human resource supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in August 2012. He worked as a third-shift finishing associate. During his employment, the claimant received a written warning in July 2014 for failing to follow instructions. On October 8, the claimant received a warning for attendance issues.

On October 11, a team leader, A., told the claimant to sand blades. The claimant went to sand as instructed. When he got to that work area another team leader told the claimant the blade was almost done and the claimant's assistance was not needed. The claimant knew the next step in the process was painting the blade. The claimant then went to his usual work area and started getting ready to paint the blade. When he was prepping, A. saw him and told the claimant that he had been told to sand. When the claimant explained what the other team leader told him, A. made a comment that he was the claimant's team leader and he was to do what A. told him. After A. told the claimant to sand until the crane came, the claimant became tired of dealing with A. because employees could not sand when the crane was present. This was a safety issue. The claimant and A. engaged in a verbal confrontation.

The claimant and six other employees reported problems with A. to management. The claimant and co-workers were frustrated with the way A. treated and talked to them. A. also reported to his supervisor that the claimant refused to follow his work instruction to sand a blade and that the claimant swore at A.

When the employer talked to the claimant, he denied using any profanity when he talked to A. The employer suspended the claimant on October 13. After the employer talked to the claimant, management reviewed video of that day and concluded the claimant had not been at a work station for an extended time. On October 15, the employer discharged the claimant for failing to be in a work area as instructed and for swearing at a team leader.

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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (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 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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant was the only person at the hearing who was personally involved in the October 11 incident. As a result, his testimony must be given more weight than the employer's reliance on hearsay information or information from employees who did not testify at the hearing. The evidence does not establish that the claimant swore at a team leader on October 11.

The facts establish the claimant and A. engaged in a verbal disagreement because A. incorrectly concluded the claimant had not followed his directions. The claimant had followed A.'s instruction but another team leader gave the claimant different instructions. The employer discharged the claimant after concluding that A.'s October 11 report was more credible than the claimant's version. The employer established business reasons for discharging the claimant, but the facts do not establish that the claimant committed work-connected misconduct. As of October 12, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's October 30, 2014 determination (reference 01) is reversed. The employer discharged the claimant for reasons that do not establish the claimant committed work-connected misconduct. As of October 12, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs