

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN C BONILLA
Claimant

APPEAL NO. 11A-UI-03878-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

**OC: 02/20/11
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 24, 2011 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on April 19, 2011. Claimant participated through interpreter, Ike Rocha. Employer participated through Becky Jacobsen and Rodney Petersen.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full time as a production worker from 2006 and was separated from employment on February 22, 2011. He was suspended indefinitely on February 10, 2011. Coworker Michael Jepsen filed a complaint against claimant for throwing a long rod down a hallway or alleyway. On this date as he pulled his arm back to throw it again and Jepsen pulled it out of his hand and said he did not want it in that spot. Jepsen complained to human resources, which investigated and discovered other complaints about claimant. They were that he yanked an employee off from a mule, made boxing motions towards three employees, gave a bear hug to another employee from behind lifting him off the floor, and that he bumped an employee with his hip in a confined area. All complaints were verified by other employees. When confronted, claimant said he was just joking around. He had been warned on June 5, 2010 about horseplay after squirting water at another employee.

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.

Claimant's repeated horseplay with coworkers after having been warned was misconduct sufficient to warrant a denial of benefits.

DECISION:

The March 24, 2011 (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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css