

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS H SCHRUM
Claimant

ROSENBOOM MACHINE & TOOL INC
Employer

APPEAL 15A-UI-07932-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/21/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 10, 2015, (reference 01) unemployment insurance decision that denied benefits based upon misconduct. The parties were properly notified about the hearing. A telephone hearing was held on July 31, 2015. Claimant participated. Employer participated through Human Resources Generalist Melissa Milbrath. Employer's Exhibits 1 through 5 were received.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a production worker from November 4, 2013, and was separated from employment on June 19, 2015, when he was terminated.

On June 15, 2015, claimant notified Assistant Plant Manager Scott Banks and Human Resources Associate Craig Van Drunen that he had been charged with possession of a controlled substance. Employer requested that claimant submit a drug test under the reasonable suspicion clause of its Drug & Alcohol Free Workplace policy. The claimant submitted a specimen at Lakes Regional Healthcare Occupational Health facility the same day. The claimant's sample was returned positive for marijuana on June 19, 2015. Employer terminated claimant by telephone on June 19, 2015, for violating its Drug & Alcohol Free Workplace policy. Employer sent claimant a copy of the test result by certified mail. Claimant did not request a second test of the split sample. Claimant received a copy of employer's Drug & Alcohol Free Workplace policy and was aware he would be terminated for a positive test result.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has met the requirements of Iowa Code § 730.5 because the claimant received a copy of employer's drug and alcohol use policy, he was tested at a certified testing facility as a result of reasonable suspicion, the drug screen was positive for marijuana, claimant was notified by certified mail and offered a split screen sample, and he did not request a second test of the split sample. Employees are required to be drug free in the workplace. The violation of the known work rule constitutes misconduct.

DECISION:

The July 10, 2015, (reference 01) decision is affirmed. 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.

Christine A. Louis
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Decision Dated and Mailed

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