

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUNIOR B SOLO
Claimant

APPEAL NO. 09A-UI-04973-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

**Original Claim: 02/22/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 17, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 28, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Tony Luse participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from April 7, 2008, to January 30, 2009. On January 30, the claimant was hospitalized after being assaulted. He was absent from work with notice to the employer during the week of February 2 because he was in the hospital.

When the claimant was discharged from the hospital on February 8, his doctor excused him from working for two weeks. He brought in the medical excuse and gave it to his supervisor on February 9.

The claimant returned to work on February 23 but was informed that his employment was terminated because the employer expected him to be back at work on February 16. The employer mistakenly considered him to have abandoned his job after his absences from February 16 through 18.

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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony that he was excused from working until February 23. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated March 17, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw