

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW C SCHNEIDER
Claimant

APPEAL NO: 14A-UI-04495-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUSCO SPORTS LIGHTING LLC
Employer

OC: 04/06/14
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Musco Sports Lighting (claimant) appealed a representative's April 25, 2014 decision (reference 01) that concluded Matthew C. Schneider (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 3, 2014. The claimant participated in the hearing. Angie Werner appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

OUTCOME:

Affirmed. Benefits allowed.

FINDINGS OF FACT:

After a prior period of employment with the employer through a temporary employment firm, the claimant started working for the employer on September 29, 2006. He most recently worked full time as a certified welder at the employer's Muscatine facility. His last day of work was April 1, 2014. The employer discharged him on that date. The reason asserted for the discharge was a conclusion that the claimant had falsified his time for attending a funeral on March 26 after prior warnings on issues including attendance.

A former coworker had passed away and the funeral was scheduled for 10:30 a.m. on March 26. The employer had authorized its employees who wished to attend the funeral up to five hours of funeral leave so that they could go home, change clothes, attend, and return home to change back before presumably returning to work. The claimant had intended on leaving shortly after 9:30 a.m., but started a project that he did not finish until after 10:15 a.m. He left work at 10:23 a.m., thinking he could get home, change, and get to the funeral home for at least

the last portion of the service, assuming the service would last about an hour. However, when he arrived shortly before 11:30 a.m., the service was over. He paid his respects briefly with the coworker's family, and then returned home. About 12:30 p.m. he called from his home asking if he still needed to return back to work for the remainder of the shift, scheduled to end at 3:00 p.m. He was told he did, and returned at 1:22 p.m. The employer concluded that the claimant had not gone to the funeral at all because he was not there during the service and all of the employer's employees who had gone had left before he arrived. However, the employer did not have any direct evidence that the claimant did not arrive at the funeral home and speak to the family as he asserted. Because the employer believed that the claimant had falsely claimed the time as being due to the funeral and because he had prior warnings relating to attendance, the employer determined to discharge him.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. Rule 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. Rule 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is the conclusion that he had falsely claimed funeral time and that he had not gone to the funeral home. Assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the employer has not satisfied its burden to establish by a preponderance of the evidence that the claimant in fact made no appearance at

the funeral home. The claimant's claim of funeral time for his absence that day was not falsification. The employer has not met its burden to show disqualifying misconduct. *Cosper*, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

DECISION:

The representative's April 25, 2014 decision (reference 01) is affirmed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs