

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANTHONY GONPUE
Claimant

APPEAL NO. 14A-UI-05920-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 05/04/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 4, 2014, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 1, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Kris Rossiter participated in the hearing on behalf of the employer. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a production laborer for the employer from March 10, 2009, to May 2, 2014.

On May 2, 2014, the claimant and a supervisor got into an argument after the supervisor had taken the ice scoop, which was part of the claimant's equipment, the day before but denied that he had it on May 2 when the claimant was looking for it. The supervisor later claimed that the claimant had directed profanity toward him. For the reason, the claimant was suspended on May 2 and discharged on May 6, 2014. In fact, the claimant did not use any profanity toward the supervisor.

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 reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony about his encounter with the supervisor. The employer's evidence that the claimant used profanity was hearsay and the claimant's testimony is entitled to more weight. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated June 4, 2014, reference 01, is reversed. 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/pjs