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

ROBERT W PRINGLE
Claimant

APPEAL NO. 11A-UI-03170-PT

ADMINISTRATIVE LAW JUDGE
DECISION

EMCO ENTERPRISES INC
Employer

OC: 02/28/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 7, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 4, 2011. Employer participated by Mary Halverson, Senior Human Resources Generalist and Aaron Bloodsworth, Production Superintendent and was represented by Chris Scheibe. Claimant did participate. Employer Exhibits 1-4 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was employed from October 8, 1997 through January 11, 2011. He was discharged from his employment because he repeated carelessness. The claimant received multiple warnings and was placed on a last-chance warning. On the final instance he failed to clean up his work area but reported that he had done so. The condition of the machine the claimant was using was not clean and had not been cleaned out in eight hours. This condition creates an unsafe and unsanitary work environment as well as interferes with the quality of the product created.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The record shows carelessness and negligence in repeated instances that rose to such a level as to amount to a willful disregard of the employer's interests. Claimant denies that he left his machines unclean but made no such assertion at the time he was terminated. His testimony is not credible. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated March 7, 2011, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Ron Pohlman
Administrative Law Judge

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Decision Dated and Mailed

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