

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLAS B MUNNO**  
Claimant

**APPEAL NO. 06A-UI-11568-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRONTIER COOPERATIVE HERBS**  
Employer

**OC: 10/29/06 R 03**  
**Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 21, 2006, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on December 18, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Nancy Hickel participated in the hearing on behalf of the employer with a witness, Karen Jordt.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer from November 28, 2005, to September 20, 2006. The claimant had been warned regarding his attendance and received a final written warning on July 11, 2006.

The claimant was absent from work on September 18 and 19, 2006. He was caring for his grandmother who was ill but falsely claimed that he was required to take his grandmother to a medical appointment. When he was asked to supply a medical excuse to support his reason for leaving work, he admitted he had lied about the medical appointment.

The employer discharged the claimant on September 20, 2006, because he had been dishonest regarding his reason for missing work.

**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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of honest behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

#### **DECISION:**

The unemployment insurance decision dated November 21, 2006, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css