

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VINOD PANT**  
Claimant

**FARMER- BOCKEN COMPANY**  
Employer

**APPEAL NO. 11A-UI-01492-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/12/11  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated January 27, 2011, reference 01, that held he was discharged for misconduct on December 31, 2010, and that denied benefits. A telephone hearing was held on March 8, 2011. The claimant participated. Amy Ross, HR Manager, and Paul Francis, CFO, participated for the employer. Employer Exhibits A, B, C, and D were received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began employment on August 11, 2008, and last worked as a full-time salesperson on December 28, 2010. Claimant received employer policies that require he not accept customer postdated checks, and that he must deposit checks not later than 10:00 a.m. the following day with a remittance notice to the employer.

The employer issued a written warning to the claimant that he received on July 8, 2009. The claimant was warned about his failure to timely deposit and holding customer checks. The employer reviewed the company policy with the claimant on both issues, and he was advised that a future violation would result in suspension and/or discipline.

CFO Francis had some verbal discussions about claimant accepting customer post-dated checks and failing to timely deposit customer checks. On December 30, a local casino security manager informed the employer he had found two checks issued to it on the casino floor. The employer called the customers and learned they had been presented to the claimant on or before he left for a two-day vacation on December 28. Both checks are postdated to December 31.

When the employer confronted the claimant during a telephone conference call on December 31, it did not believe claimant was truthful about receiving the checks, why he did so with postdated dates, why he failed to send a remittance notice to the employer when received them, and why he failed to timely deposit them. The employer discharged claimant for a repeated policy violation.

The claimant acknowledges he took the customer checks on December 27 and December 28, but he denies that he knew they were postdated. He forgot to include them as a remittance on his employer system report and to timely deposit them. He also believes he lost them in the casino when he went there with friends. He denies any employee dishonesty.

### **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 administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on December 31, 2010, for a repeated violation of company policy.

The claimant received a written warning less than 18 months prior to his discharge for violating the employer postdated check/payment receipt and timely deposit policy. He was put on notice that a further violation could result in termination. The employer reinforced the policy by subsequent verbal discussions.

As to the recent incidents, the fact is the claimant received substantial customer payments that show postdated check dates, which he failed to timely report to the employer and to timely deposit. The claimant's testimony he didn't notice the checks were postdated is not credible. This conclusion is supported by the fact he failed to timely report the remittances to the employer, and deposit them. This action led to having possession of the checks when he went to the casino and lost them.

The recent policy violations, in light of the prior written warning accompanied by verbal reminders, do constitute job-disqualifying misconduct.

**DECISION:**

The department decision dated January 27, 2011, reference 01, is affirmed. The claimant was discharged for misconduct on December 31, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw