

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEX J SISSON**  
Claimant

**APPEAL NO. 09A-UI-18791-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCED DRAINAGE SYSTEMS INC**  
Employer

**OC: 11/15/09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated December 8, 2009, reference 01, which denied unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 26, 2010. Claimant participated personally. Participating on behalf of the claimant was his attorney, Mr. Stuart Cochrane. The employer participated by Michael Kirkland, Plant Manager. Exhibit One was received into evidence.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Alex Sisson was employed as a polyethylene molded tubing technician for Advanced Drainage Systems, Inc. from September 22, 2008 until he was suspended from work on November 12, 2009 and discharged on November 17, 2009. Mr. Sisson was paid by the hour. His immediate supervisor was Sean Griffin. Mr. Sisson was assigned to work the night shift.

The claimant worked in conjunction with a line operator on a machine that produces corrugated polyethylene tubing for industrial/farm use as drainage systems. The machine extrudes the plastic corrugated tubing with various configurations of drainage holes implemented into it for the type of application it is to be applied to. Mr. Sisson worked in conjunction with a line operator who controlled the mechanical adjustments of a machine. The tubing is produced in various dimensions and lengths with various patterns of slots tailored to the application that the product is to be sold for.

Because of the competitive nature of the industry the employer places high emphasis on the quality of pipe being produced and coiled for sale.

In his job position, Mr. Sisson was to inspect the pipe being produced from the machine from the beginning of each length to the end to ensure there were no “blowouts” (bad sections) or sections with slots improperly or partially cut by the machine. If a bad section or blowout was observed, Mr. Sisson was to stop, remove the imperfect portion and resection the tubing eliminating the bad portion. The claimant was to inform the line operator who would then make adjustments on the machine and was to also inform the supervisor on duty. After the inspection process, Mr. Sisson was to manipulate the tubing through a coiling machine to bundle it for shipment and sale.

Because of recent poor production runs with inferior product being produced, the plant manager, Mr. Kirkland, met with all the company’s production workers on November 11, 2009. The plant manager went through all potential quality issues and had employees identify examples of inferior product showing examples of tubing that had been produced without proper slotting. Mr. Kirkland stressed the importance of producing only good quality product per the company’s requirements.

The following morning Mr. Kirkland observed three “maxi coils” a pro inch diameter tubing that had been inspected and coiled by Mr. Sisson the previous night. Each maxi coil was of lengths of 100 to 300 feet and each had taken approximately one hour to produce and coil. Mr. Kirkland noted that all three coils produced by Mr. Sisson were of obvious substandard manufacture, with one of the rolls of needed slots not cut through the pipe but only partially grooved. Mr. Kirkland also noted that the supervisor had made a report of the poor production near the end of the shift. A plant manager concluded that all three workmen shared some fault in the production because the line operator was to be observing the machine’s adjustments, the supervisor was to be overseeing the production and Mr. Sisson was to give the hands-on inspector and coiler of each run to ensure product quality.

A decision was made to terminate Mr. Sisson based upon his responsibility to inspect the tubing from the beginning to the end and his responsibility to note or repair any defects. Management also considered the fact that Mr. Sisson had received two previous warnings for allowing substandard product to be produced in 2008 and June of 2009. When questioned about the matter Mr. Sisson had stated “I just screwed up ...I just didn’t do anything about it.”

In addition to his inspection and coiling duties that night, Mr. Sisson assisted other workers with other tasks because his machine produced tubing slowly, offering the claimant the opportunity to help with other tasks. The claimant maintains that he checked the beginning and end of each maxi coil run and did not observe the bulk of the product being produced in each coil. The claimant believes his previous warnings were unjustified because he was new at the job and had received inaccurate information from other workers.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is.

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 claimant's primary job assignment and responsibility in his employment with Advanced Drainage Systems, Inc. was to inspect each coil of polyethylene tubing being produced from the machine he was assigned to from beginning to end and to then coil each section for shipment and sale. Mr. Sisson was aware that he was to immediately repair any bad sections and alert the line operator for machine adjustments if necessary. The purpose of the claimant's job position was to ensure that product being produced for sale was of high quality and without defects. In his job the claimant was required to observe the piping produced, as it was being produced and to then handle each section individually while coiling it giving the claimant a second opportunity to inspect the product. The claimant had been trained and had been warned in the past for substandard production. Although the company's general manager had met with company employees the same day and had specifically emphasized the need for close scrutiny of the company product, Mr. Sisson did not fulfill his primary job responsibilities allowing approximately one-half of the night's production to not only be produced in an unusable form and by not noting its defects before sale to customers.

The administrative law judge concludes based upon the evidence in the record that while Mr. Sisson may not have intentionally caused bad product to be produced as saleable merchandise, his negligence or carelessness was of such a degree so as to manifest equal culpability under the provisions of the Employment Security Act. Benefits are denied.

**DECISION:**

The representative's decision dated December 8, 2009, reference 01, is affirmed. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided that he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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