

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DENISE M RUBY**  
Claimant

**PHOENIX CLOSURES INC**  
Employer

**APPEAL 15A-UI-01201-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/11/15**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 26, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 11, 2015. Claimant participated. Employer participated through Linda Humphrey and Kevin Stoltenberg and was represented by Bob Gabrielsen of Unemployment Consultants. Employer's Exhibit One was entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a material handler beginning on January 5, 2009 through January 9, 2015 when she was discharged.

On December 9, the claimant loaded a trailer with plastic food product lids that was to be delivered to one of the employer's customers, Nestle. The claimant knew that she was to make an inspection of the trailer prior to loading it. She also knew that she was to sweep any debris from the trailer prior to loading it and then indicate in paperwork that she had inspected the trailer.

The employer was notified by Nestle near December 17 that copper bits or pieces had been introduced into their plant and had gotten into their process from the delivery that the claimant had loaded. Nestle provided this employer with pictures of the copper bits on the floor of the trailer.

The employer established through their own internal controls that it was actually the claimant who loaded the trailer and would have been responsible for making the inspection and sweeping out the debris prior to loading. The claimant did not fill out the trailer inspection record that she had normally done many times correctly in the past. For some reason the claimant simply did not make the required inspection and sweep prior to loading the trailer.

As a result, Nestle had to waste over one hundred and eighty thousand dollars of product, which they charged back to this employer. The claimant's failure to perform the inspection and sweep the copper pieces out of the trailer resulted in a loss to the employer of one hundred eighty thousand dollars.

Under the employer's policies, a copy of which had been given to the claimant, one incident of this magnitude can result in discharge.

The claimant was not discharged for any reason other than her failure to follow company inspection and sweeping policies that has resulted in a substantial loss to the employer.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The inspection and sweeping requirements put in place are to prevent exactly the type of incident that occurred from happening. The claimant knew how to inspect and properly sweep and record her actions. The administrative law judge is persuaded that the claimant was responsible for loading the truck but failed to inspect or she would have seen the copper bits. Her failure to perform her job duties resulted in a serious financial loss to the employer. Under these circumstances, the claimant's actions do amount to substantial job-connected misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The January 26, 2015 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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