

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDON J YODER**  
Claimant

**APPEAL NO: 09A-UI-19356-ST**

**BECKETT'S PUBLIC HOUSE LTD**  
Employer

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/11/09  
Claimant: Appellant (2)**

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 December 15, 2009, reference 06, that held he was discharged for misconduct on November 14, 2009, and benefits are denied. A telephone hearing was held on February 4, 2010. The claimant participated. The employer did not participate.

**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 witness, and having considered the evidence in the record, finds: The claimant began employment as a part-time cook about April/May 2009, and last worked for the employer on November 14. The claimant suffered a job-related injury during his work shift on November 14, and when he left early at 4:00 p.m. he said it was unlikely he would report to work the next day. When the claimant called at 10:00 a.m. the following day to confirm he was not coming in, he was discharged for calling in late to work. The claimant had received no prior warning(s).

The employer failed to respond to the hearing notice.

**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 failed to establish that the claimant was discharged for misconduct in connection with employment effective November 14, 2009.

The claimant offered a good cause for leaving work and his absence the following day. Misconduct is not established.

**DECISION:**

The department decision dated December 15, 2009, reference 06, is reversed. The claimant was not discharged for misconduct effective November 14, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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