

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES BELLEFLEUR
Claimant

APPEAL NO: 10A-UI-11702-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 07/25/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 18, 2010 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant participated in the hearing. Prior to the hearing, the employer informed the Appeals Section that the employer no one would be participating in the hearing on the employer's behalf. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working full time for the employer in August 2008. The claimant understood the employer did not allow employees to fight at work.

The claimant was trying to help a new employee when the two had a confrontation about a fan. The new employee attacked the claimant and hit the claimant's back. While the claimant is generally not a fighter, he defended himself and hit back. A supervisor did not come until the two men continued fighting and started wrestling on the floor.

The employer discharged both employees on July 27, 2010, for fighting at work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's

interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew the employer's policy did not allow employees to fight at work. After the new employee hit him in the back, the claimant was not going to let the new employee get away with that and hit him back. A supervisor was not immediately present. The claimant's reaction was not unusual, but the claimant could have left the area and reported what the new employee did instead of hitting him back which continued the fight between the two of them. The claimant violated the employer's policy by hitting back at the employee. The employer discharged both employees for reasons constituting work-connected misconduct. As of July 25, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's August 18, 2010 determination (reference 01) is affirmed. The employer discharged the claimant because he committed work-connected misconduct by violating the employer's no-fighting at work policy. The claimant is disqualified from receiving unemployment insurance benefits as of July 25, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs