

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES COON
Claimant

APPEAL NO. 13A-UI-10718-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENGINEERED PLASTIC COMPONENTS INC
Employer

OC: 08/18/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

James Coon (claimant) appealed an unemployment insurance decision dated September 11, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Engineered Plastic Components, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 15, 2013. The claimant participated in the hearing. The employer participated through John Johnson, Human Resources. Employer's Exhibit One and Claimant's Exhibits A, B, and C were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time maintenance technician from January 16, 2012 through August 16, 2013 when he was discharged for misappropriation of company funds. The employer had a pre-paid Wal-Mart shopping card that was kept in the receptionist's desk at the employer's facility. It was to be used for incidentals and the only authorized user is Purchasing Manager Matt Sears. The card was discovered missing on Monday, July 22, 2013 and an investigation began.

Mr. Sears eventually traced the purchases to the Newton Wal-Mart on Saturday, July 20, 2013 at 1:50 p.m. where the total amount spent was \$224.24. The employer's facility was shut down on that Saturday but there were a couple maintenance employees in the building. The employer was selling some manufactured goods in downtown Grinnell that day and there were two employees who were transporting those goods downtown. The claimant got off work that Saturday at 12:30 p.m. John Johnson of Human Resources heard that the claimant's wife was also at the employer's facility on July 20, 2013 but could not verify that information.

The matter was turned over to the Grinnell Police Department at the beginning of August 2013. The Grinnell Police subsequently transferred the case to the Newton Police Department since the crime occurred in Newton. The police obtained the Wal-Mart surveillance recordings for July 20, 2013 and turned those over to the employer on approximately August 7, 2013. The employer observed the surveillance recording and saw that it appeared to be the claimant using the company card. The claimant was called in on August 16, 2013 to be suspended. During the meeting, he admitted he used the card to spend the funds and he was discharged as a result. The claimant was criminally charged with theft in the fourth degree for possessing stolen property having a value of \$224.24. The matter is pending and the case has not yet gone to trial.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on August 16, 2013 for theft of company property. He admits he spent \$224.24 on the Wal-Mart shopping card but contends his wife found the shopping card in the Wal-Mart parking lot. The contention that the employer's shopping card was merely found in the Wal-Mart parking lot strains credibility. The preponderance of the evidence confirms the claimant misappropriated the employer's funds. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated September 11, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs