

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT E HOFFMAN
Claimant

APPEAL NO. 07A-UI-03873-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCFARLAND CLINIC PC
Employer

**OC: 03/25/07 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Robert Hoffman, filed an appeal from a decision dated April 13, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 30, 2007. The claimant participated on his own behalf. The employer, McFarland Clinic PC (McFarland), participated by Director of Human Resources Matt Franco and Facilities Manager Dean Janssen. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Robert Hoffman was employed by McFarland from June 12, 2000 until March 29, 2007, as a full-time maintenance technician. On Sunday, March 25, 2007, the claimant was on duty doing the “building check” at 4:00 a.m. and at 3:00 p.m. This is a regular, and vital, part of his job responsibilities. He is to tour the facility checking on all the equipment and systems to make sure everything is operational and there are no problems according to a checklist which sets out everything he is to monitor. He is also to log onto a Metasys computer program which will inform him of any problems or alarms which have gone off within the monitored areas.

Mr. Hoffman did not do a thorough building check at either of the times he was in the building, and logged onto the computer at 3:28 p.m. and logged off at 3:29 p.m., which is an insufficient amount of time to do a thorough check. The next morning he arrived at work and did the building check as he should have done, and discovered a hot water heater had ruptured and caused water to flood the area.

The matter was addressed and he informed Facilities Manager Dean Janssen and Executive Director of Facilities Ron Frantzen. An investigation revealed the rupture had occurred around 6:46 a.m. on March 25, 2007, when the alarm had gone off. As a result one of the clinics reported having no hot water, the alarms had been heard by other employees, water damage to

a carpet and toilets not being able to flush. On March 26, 2007, the flood caused there to be no air conditioning in parts of the facility, resulting in temperatures close to 90 degrees.

The city water department informed the employer 360,000 gallons of water had been lost, and the dollar amount of the damage has still not been determined. Mr. Hoffman acknowledged he did not do the building check as required because he was in a hurry, and did not check the Metasys program thoroughly enough to check on the alarms. Due to the serious nature of the damage, and its preventability, the claimant was discharged on March 29, 2007, at the conclusion of the investigation.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant was discharged for one incident of misconduct. In order to be disqualified from unemployment benefits for a single incidence of misconduct, the misconduct must be a deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees. Henry v. IDJS, 391 N.W.2d 731 (Iowa App. 1986). In the present case the claimant did not do the building check as required, because if he had, the water spill would

have been discovered nearly 24 hours earlier than it was. The substantial amount of the damage and the claimant's deliberate failure to do his duties as required, raises this one incident to a level of misconduct sufficient to warrant a denial of unemployment benefits.

DECISION:

The representative's decision of April 13, 2007, reference 01, is affirmed. Robert Hoffman is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css