

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW KENNEDY**  
Claimant

**APPEAL NO: 07A-UI-02164-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KRAUSE GENTLE CORP**  
Employer

**OC: 01/07/07 R: 02  
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Matthew Kennedy (claimant) appealed a representative's February 22, 2007 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Krause Gentle Corporation (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held in Des Moines on March 20, 2007. The claimant participated in the hearing. Alan Oatsvall, the general manager, appeared on the employer's behalf. Charles Campbell observed the hearing. During the hearing Employer Exhibits One through Three and Claimant Exhibits A through D were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in 2001. The employer sponsored the Menace soccer team and developed programs to promote youth soccer. The claimant worked as a technical director and coached youth soccer teams. On June 30, 2006, the claimant signed a written contract or coaching agreement that specified the contractual terms of his employment. The contract laid out not only the claimant's coaching obligations, but also stated the claimant's job included: providing coaching services to two Menace Academy teams during the fall of 2006 and the spring of 2007; providing a minimum of two goalkeeping training sessions during the fall of 2006 and the spring of 2007; developing the growth of the junior Menace program; attend 90 percent of all practices and all the games for the two teams the claimant coached; and manage, develop and secure 30 teams for an indoor winter tournament. (Employer Exhibit One.) Casey Mann, the director of coaching, was the claimant's supervisor.

During the summer of 2006, Oatsvall gave the claimant permission to be gone three weeks to work at soccer camps throughout the country. The claimant understood Mann gave him permission to be gone for six weeks during the summer.

After the claimant returned in August 2006, the employer talked to him about some complaints. On August 22, 2006, the employer told the claimant it appeared that the claimant did not have any interest in the Junior Menace program. Parents had recently complained about the claimant not attending many Junior Menace practices or games, canceling practices at the last minute and sending other staff to cover soccer clinics the claimant was responsible for doing. (Employer Exhibit Two.) On September 6, 2006, the employer again talked to the claimant about canceling practices at the last minute and sending another coach to do the claimant's contracted work. The claimant's schedule between the Junior Menace program and his contractual obligations at Waukee made it virtually impossible for the claimant to do everything he was responsible for doing. The claimant did not get his conflicts resolved with the director of coaching and Oatsvall.

The claimant understood his contractual obligations required him to develop and promote a Christmas soccer clinic. The employer had a goal of having 100 youth participate in the clinic. In addition to developing the clinic, the claimant was also responsible for recruiting youth to the clinic. In late June the employer told the claimant to work with the director of operations, Tanya Mann, to make this clinic a success.

At various times in the fall, the director of operations asked the claimant about the progress of the Christmas clinic. The claimant's response was that he knew this had to be done and he would get on it. The director of operations asked the claimant to pick up flyers for the Christmas clinic and take them to schools in the Metro area. In late November the claimant picked up a batch of flyers and left the flyers at two soccer stores, at some local businesses and at two schools that were in his local neighborhood, Merrill and Hanawalt. Although the employer left messages for the claimant to pick up more flyers to deliver to other schools in the Metro area, the claimant did not return the director of operations' calls. The director of operations had continual problems maintaining contact with the claimant even by phone. The claimant was frequently out of town. The employer ended up with 21 participants at the Christmas clinic.

The claimant was also responsible for recruiting teams for an indoor winter tournament. The claimant made arrangements to use goals and nets from a coach of a local soccer club. The claimant asserted he called and sent emails to high school soccer coaches in an attempt to recruit teams for the tournament. When the employer asked the claimant about the winter tournament he again indicated he needed to get on this. The claimant did not inform the employer about emails or phone calls he had made.

When the employer had problems contacting the claimant in early December and the claimant did not pick up more flyers to distribute to other Metro schools, the employer decided to end the claimant's contract. On December 6, the employer gave the claimant a 30-day notice that his employment would end as of January 5, 2007. (Employer Exhibit Four.) The employer discharged the claimant because he failed to provide the necessary instruction to Junior Menace players, he failed to recruit and promote the Christmas clinic and failed to develop and secure teams for a January winter tournament.

## **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).

When the employer required the claimant to sign the June 2006 contract, the claimant understood his job was in jeopardy. The employer re-emphasized problems or complaints the employer had received when the employer talked to the claimant on August 22 and September 6, 2006. The facts show the claimant was very busy. (Claimant Exhibits A through D.) However, the facts do not establish that the claimant addressed any scheduling conflicts with the director of coaches or Oatsvall in an attempt to resolve scheduling conflicts. As a result, the conflicts remained unresolved and the claimant's contractual obligations to the Junior Menace program were not fulfilled to the employer's satisfaction. If this were the only problem, the claimant would have been discharged for nondisqualifying reasons.

The claimant's job responsibilities also included developing, promoting and recruiting players to participate in a Christmas clinic and a winter tournament. The claimant's efforts to meet these responsibilities are more troublesome. Again, the claimant was busy and was not always in town because of soccer-related tournaments. Even though the claimant went to soccer tournaments, he was still responsible for making the Christmas clinic and winter tournament successful. The claimant had the skills and connections to make the clinic and tournament successful. A major problem occurred when the claimant failed to communicate what he had or had not done concerning the clinic and tournament even though the employer told him to work with the director of operations. When the director of operations was able to talk to the claimant about the status of the clinic and tournament, the claimant acknowledged he knew he had to get going on these projects.

Picking up flyers once or even twice and distributing them to just two schools that were in the claimant's neighborhood and leaving flyers at two soccer stores shows minimal effort on the claimant's part to make the Christmas clinic successful. The employer wanted all the Metro schools to have flyers so interested youth knew about the soccer clinic. Even if the claimant was not required to personally distribute the flyers to all the schools, it was his responsibility to communicate and make arrangements with the director of operations to make sure someone distributed the flyers to all schools in a timely manner. The claimant did not do this.

The claimant asserted he called and emailed high school soccer coaches about the winter tournament, but he did not provide that information to the employer. Additionally, it is not known when he did this, because no supporting evidence was presented to support this action. Since the claimant knew his job was in jeopardy, the minimal efforts he made to promote the Christmas clinic and tournament amounts to an intentional and substantial disregard of the employer's interests. The claimant ultimately gave the employer a reason to discharge him by failing to develop, promote and recruit players for the Christmas clinic and winter tournament. The employer discharged the claimant for reasons that constitute work-connected misconduct.

Therefore, as of January 7, 2007, the claimant is not qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's February 22, 2007 decision (reference 02) is affirmed. The employer discharged the claimant for reasons that amount to work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 7, 2007. 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 charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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