

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUANA DAVILA RIVERA
Claimant

APPEAL NO. 13A-UI-07415-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OSCEOLA FOOD LLC
Employer

OC: 06/02/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Juana Davila Rivera (claimant) appealed an unemployment insurance decision dated June 19, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Osceola Food, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 3, 2013. The claimant participated in the hearing with Attorney Erik Luthens. Manuel Serreyra was present for the hearing but did not participate. Anna Pottebaum interpreted on behalf of the claimant. The employer participated through Manager Aaron Peterson and Quality Control Engineer Kylene Chestnut. Employer's Exhibit One was admitted into evidence.

ISSUE:

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

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 production worker from October 25, 2004 through June 3, 2013 when she was discharged for falsifying company documents. Falsification of company documents is an example of gross misconduct under the employer's work rules and gross misconduct warrants immediate termination. The claimant signed multiple acknowledgements that she read and understood the employer's work rules.

The employer manufactures and produces meat products and federal laws mandate systematic checks to ensure there is no metal in its finished meat products. The meat is run through metal detectors and the metal detectors must be regularly tested to ensure they are working properly. The employer has plastic wands which contain metal inside to simulate metal in the meat. Trained employees must use the wands to check the metal detectors hourly and at the

beginning and end of each shift. When the wand is placed in the metal detector, it makes a loud buzzing sound if the metal detector is working. The employee who checks the metal detectors then sign their initials on the HACCP hourly metal detector sheet to confirm the systematic checks were completed.

The claimant was trained on completing the HACCP metal detector checks but on May 28, 2013, she intentionally falsified that she completed the end of shift check at 12:24 a.m. She initialed the legal document that she completed the check even though Quality Control Engineer Kylene Chestnut and the corporate auditor were present at the end of the shift. Ms. Chestnut testified she saw that the claimant had not tested the metal detector and confirmed there was no buzzing sound which would have confirmed the metal detector was working. The claimant subsequently admitted to both Ms. Chestnut and Manager Aaron Peterson that she placed her initials on the HACCP sheet indicating she tested the metal detector when she had not done so.

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 June 3, 2013 for gross misconduct under the employer's work rules. One of the most fundamental duties owed by an employee to an employer is honesty. The claimant intentionally falsified company documents which are completed in compliance with federal guidelines. 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 June 19, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs