

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**EDUARDO M CAMPUZANO**  
Claimant

**HORMEL FOODS CORPORATION**  
Employer

**APPEAL 17A-UI-13381-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/26/17**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 22, 2017, (reference 01) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 19, 2018. Claimant participated. Employer participated through human resource manager Elvia Rodriguez and was represented by Beverly Maez. Employer's Exhibit 1 was received.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 12, 2016. Claimant last worked as a full-time fork lift driver on the second shift. Claimant was separated from employment on November 29, 2017, when he was terminated.

Employer has a work rule stating fighting on the property is prohibited. Claimant was aware of the rule.

On November 26, 2017, claimant's co-worker became angry with him and approached him while he was driving a fork lift. Claimant was afraid the employee was going to pull him down and injure him so he got off. Claimant's co-worker then punched him on the left side of his face. Claimant put up his hands and was eventually able to push the co-worker away. Claimant did not throw any punches at his co-worker. Claimant immediately sought out his supervisor and reported the incident. Claimant's supervisor did not witness the incident, but reported it to human resource manager Elvia Rodriguez.

Rodriguez interviewed claimant and his co-worker. Claimant reported that his co-worker started the fight and he only defended himself. The co-worker reported the fight was mutual. Because employer had a conflicting story, it decided to terminate both employees.

On November 29, 2017, employer terminated claimant for fighting in the workplace. Claimant had never been previously warned for similar conduct.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

In this case, claimant was physically assaulted by his co-worker. Claimant testified that he was not the aggressor and only defended himself. Claimant immediately reported the incident after it occurred. Claimant was the only firsthand witness who testified at the hearing, and I find his testimony credible. While fighting is prohibited in the workplace, claimant had no choice in a situation where he was assaulted but to defend himself and immediately report the incident. That is what claimant did here.

Employer failed to establish claimant was terminated for job-related misconduct.

**DECISION:**

The December 22, 2017, (reference 01) unemployment insurance decision is reversed. Claimant was separated for no disqualifying reason. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

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Christine A. Louis  
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Decision Dated and Mailed

cal/scn