

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHEN W PAYNE**  
Claimant

**VAN DIEST SUPPLY CO**  
Employer

**APPEAL NO. 09A-UI-11256-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**Original Claim: 07/05/09  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated July 30, 2009, reference 01, that held he was discharged for misconduct on July 6, 2009, and that denied benefits. A telephone hearing was held on August 21, 2009. The claimant participated. Mark Davis, Manufacturing Director, participated for the employer. Employer Exhibit One was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began full-time employment on November 2, 2004, and last worked for the employer as a shipping & receiving operator on July 6, 2009. The claimant received the Electronic Time Card policy, which provides a four-step progressive discipline for violations from a warning to termination.

The claimant received a verbal and written warning for failing to punch out for lunch on March 27, and April 6, 2009. The claimant received a written warning with a two-day suspension on April 24 for failing to punch out at the end of his work shift.

The employer discharged the claimant on July 6 for failing to punch in at the start of his work shift on July 1. The claimant admitted the time card policy violations in this hearing.

**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.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on July 6, 2009, due to repeated violations of the employer electronic time card policy in light of progressive discipline.

The employer's testimony is corroborated by documentation that the claimant was repeatedly and progressively warned for time card policy violations, which the claimant admitted was misconduct in this hearing.

**DECISION:**

The department decision dated July 30, 2009, reference 01, is affirmed. The claimant was discharged for misconduct on July 6, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw