

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEWY L LEASURE
Claimant

APPEAL NO: 06A-UI-08398-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

**OC: 07/23/06 R: 04
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Lewy L. Leasure (claimant) appealed a representative's August 17, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of West Liberty Foods LLC (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, a telephone hearing was held on September 7, 2006. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant 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:

After working as a temporary employee for a while, the employer hired the claimant to work as a full-time employee on May 27, 2006. The claimant worked as a machine operator.

On July 24, 2006, the claimant was scheduled to work until 11:30 p.m. The claimant's work had been done by 11:30 p.m., but he stayed for another hour. The claimant cleaned for an hour. Although coworkers still had work to do, the claimant did not have any work to do and told a co-worker he was leaving at 12:30 a.m. The claimant also told a team leader he was punching out to go home. The team leader did not tell the claimant he needed to stay at work or to contact someone in upper management to verify that the claimant could leave work.

When the claimant reported to work the next day as scheduled, the employer terminated his employment. The employer discharged the claimant because he had abandoned his job the night before. When upper level management looked for the claimant at work, the claimant's co-workers failed to let the employer know the claimant told them he was punching out at 12:30 a.m. and went home.

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 § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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).

Based on the information the employer's managers received about the claimant leaving work at 12:30 a.m. on July 25, the employer had business reasons for discharging the claimant. The facts do not establish that the claimant intentionally or substantially disregarded the employer's interests when he left work at 12:30 a.m. or an hour after his shift ended. The claimant did not leave until he had cleaned his work area and had nothing else to do or had been assigned to do. The claimant told two lead employees he was checking out and neither one told him to stay or talk to someone in management before he left. The evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of July 23, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 17, 2006 decision (reference 02) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of July 23, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/cs