

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREG A MILLER
Claimant

APPEAL NO. 13A-UI-05772-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

**OC: 04/14/13
Claimant: Respondent (1)**

Section 96.5-2-a – Suspension

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 1, 2013, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 20, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Terry Vriese participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant suspended or discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a production employee from October 30, 2006, to April 12, 2013. He was informed and understood that under the employer's work rules, employees were not to leave the premises until their shift was completed and permission is given by a supervisor.

On April 12, 2013, the claimant had left work near the end of his shift after completing all his assigned work but without checking with a supervisor to see if there was any further work available. This was a one-time incident and in the past, the claimant had always checked with a supervisor before leaving.

The claimant reported to work on his next scheduled day but was suspended. He was informed that his employment was terminated because the employer considered him to have abandoned his job. The claimant never intended to quit his job when he left work on April 12. The employer ended up changing the claimant's termination into a one-month suspension and the claimant return to work in mid-May 2013.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992). There is no evidence that the claimant intended to quit his job when he left work on April 12.

The issue in this case is whether the claimant was discharged or suspended for work-connected misconduct as defined by the unemployment insurance law. The rules provide that a disciplinary suspension is to be evaluated as a discharge. 871 IAC 24.32(9).

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. No repeated negligence equaling willful misconduct has been shown. At most, an isolated error in judgment has been established not rising to the level of disqualifying misconduct.

DECISION:

The unemployment insurance decision dated May 1, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs