

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD M BUCK
Claimant

APPEAL NO. 09A-UI-09600-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRST FLEET INC
Employer

**Original Claim: 05/31/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 26, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 21, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Matt Childs participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full-time for the employer from February 26, 2007, to June 1, 2009. He started as a tire technician, but the employer promoted him to a mechanic's position in June 2008.

The claimant was warned on December 4, 2008, for slow work performance issues and keeping comments to himself. He was suspended on February 17, 2009, for poor work performance, failing to complete tasks, and inattentiveness to details.

At the end of May or beginning of June, the claimant found the cloth nametag of a former employee whose employment had been terminated. He created a sign using the former employee's nametag and wrote on the sign "Remember the fallen ... the few, the proud, the one." He posted the sign in the building for other employees to see as a joke. He and the other employees often told jokes about this employee while he worked for the employer and afterward. The employer considered the sign to be a derogatory insult of the past employee.

On June 1, 2009, the employer discharged the claimant because of the derogatory sign he had posted and his past history of discipline.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. 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).

The claimant's conduct in posting the derogatory sign was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated June 26, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw