

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY B COCHRAN
Claimant

APPEAL NO. 12A-UI-06548-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPARTAN STAFFING LLC
Employer

OC: 07-03-11
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 25, 2012, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on June 26, 2012. The claimant did participate. The employer did participate through Kristin Hughes. Employer's Exhibit One was entered and received into the record.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at American Hydraulics full time as a production laborer beginning on January 4, 2012 through April 12, 2012 when he was discharged. The employer is required to report any work related injuries to their insurance carrier within twenty-four hours of the occurrence of the injury. The claimant had been instructed that he was required to report injuries immediately to the supervisor of the location where he was assigned to work. The claimant had previously properly reported two separate injuries in a timely manner. On March 29, 2012 the claimant burned his forearm. He reported the injury and was sent for medical treatment. While receiving treatment for his burn he also reported that he had elbow pain. During the weeks following his initial injuries the claimant attended safety meetings where all attendees, including the claimant, were again instructed to immediately report any injury no matter how small to the employer. In the week prior to April 12 the claimant met with Ms. Hughes who again specifically instructed him that he was to immediately report any injuries to the employer. At an April 12 follow up visit to a medical provider for his elbow injury, the claimant first reported an injury to his finger that occurred on April 9. The claimant had pinched his finger in the pinch point of a machine, but prior to his medical appointment on April 12 had not reported it to the employer. The claimant knew he had the injury but did not follow the employer instructions about reporting despite numerous instructions to do so and a demonstrated ability in the past to properly report injuries.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The employer must know about injuries as soon as they occur in order to comply with their insurance carrier requirements that the injury be reported within twenty-four hours. Additionally, the employer has a requirement to provide a safe workplace, without employees reporting injuries promptly and fully, the employer is hampered in their obligation to provide a safe workplace. The claimant knew the requirements for reporting injuries and had correctly reported in the past. It was not up to the claimant to determine whether an injury needed to be reported. The claimant had specific warning the week prior to his final injury and did not follow the clear, reasonable, known reporting procedure. His failure to follow the reporting policy is sufficient misconduct to disqualify him from receipt of unemployment insurance benefits. Benefits are denied

DECISION:

The May 25, 2012 (reference 04) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has

worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css