

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL A GLENN
Claimant

APPEAL NO: 14A-UI-02419-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 02/09/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 27, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the March 26 hearing. Billy Edward testified on the claimant's behalf. Danielle Williams, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in April 2013. The claimant worked full time on an overnight shift. The claimant received a copy of the employer's workplace violence-free policy when he was hired and in October 2013. The employer's policy informs employees they may be discharged if they have physical contact with another employee who perceives the contact as threatening or unwelcome.

The claimant and Edwards are long-time family friends. On his overnight shift on February 6-7, the claimant was frustrated because he was working at a new job and did not believe he had been properly trained. During a break, the claimant and Edwards were joking around. Part of their joking around involved swearing. While they were joking around, the claimant grabbed Edwards' neck or upper chest which ended up with Edwards falling or being pushed into another person's lap. The claimant was not upset or angry with Edwards. He grabbed Edwards' body in horseplay.

After Edwards had been pushed or fell into another employee's lap, he was a bit concerned and did know why the claimant had done this. When the employer investigated the incident, the employer understood Edwards felt threatened after the claimant pushed him. Edwards was not threatened, but questioned that their horseplay went a bit too far. The employer discharged the claimant on February 7, 2014, for violating the employer's workplace violence-free policy.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Based on its investigation, the employer established justifiable business reasons for discharging the claimant. During the hearing, Edwards testified that he and the claimant were joking and horsing around during the overnight shift on February 6. While the horseplay may have gotten a bit out-of-hand, the claimant was not upset with Edwards and had no intention of threatening or hurting him. The claimant's horseplay conduct is not condoned, but the evidence does not establish that he committed work-connected misconduct. As of February 9, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's February 27, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of February 9, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs