

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HENRY D SCHMIDT
Claimant

APC COMPANY INC
Employer

APPEAL 15A-UI-05513-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/26/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 7, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2015. Claimant participated. Employer participated through Michelle Price, Senior Human Resources Business Partner; Jeff Ostendors, Plant Manager; Jason Bailey, Plant Superintendent; and Brian Hill, Quality Control Supervisor.

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: Claimant was employed full-time as a production worker beginning on October 20, 2014 through April 20, 2015 when he was discharged.

As part of his job duties, the claimant was required to run dust and moisture tests on the product he was producing. No matter who ran the machine, that person was expected to perform the test to insure quality product. The employer had been receiving complaints from their customer that the product was not meeting their expectations and went to the claimant to insure that he was performing the required quality control tests. The claimant knew how to run the required tests and had done so correctly in the past.

On April 15 Mr. Bailey told the claimant to be sure to run the required tests. The claimant told Mr. Bailey he was not going to run the tests because he did not have time to do so. The claimant was not joking or goofing around. Mr. Bailey reported to Mr. Ostendors what the claimant had said and he was immediately removed from work on that machine and assigned to other duties. Later that same day the claimant was suspended. The employer discharged the claimant for his refusal to perform the required job duties.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew how to perform the required tests which were required by the employer's customer. He was not treated any differently than any other employee. The administrative law judge finds the employer's witnesses more credible than the claimant. The claimant refused to perform required tests which jeopardize the quality of the product and hence the employer's relationship with the customer. The claimant's refusal to perform required job duties is evidence of carelessness to such a degree to rise to the level of disqualifying job related misconduct. Benefits are denied.

DECISION:

The May 7, 2015 (reference 01) 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/pjs