

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY R WRIGHT-MAYS

Claimant

APPEAL NO. 12A-UI-03305-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE FOODS GROUP

Employer

OC: 02/12/12

Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Judy Wright-Mays (claimant) appealed a representative's March 21, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was discharged from work with Pinnacle Foods Group (employer) for violation of a known company rule. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 17, 2012. The claimant participated personally. Matthew Horn, observed the hearing. The employer was represented by Gina Moshiri, Attorney at Law, and participated by Ronald Udell, Senior Human Resource Manager; Wilda Lampe, Human Resources Specialist; and Kim Miller, Operations Manager. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 1, 1989, as a full-time production employee. The claimant signed for receipt of the employer's plant rules that indicated an employee would be issued a verbal warning, a written warning and a final written warning/suspension prior to termination.

On February 7, 2012, the claimant added raw meat and spices to a batch of cooked meat. The claimant could have stopped production and found a supervisor to minimize the loss but allowed raw product to go into the mixers, contaminating the product. The employer questioned the claimant about her actions and she said she was not thinking clearly. The employer instructed the claimant to wait while the employer deliberated. The claimant went outside, had a soft drink and a cigarette, and returned to the employer when called back to the meeting. The employer suspended the claimant that day. The claimant's actions cost the employer in excess of \$8,000.00. At the meeting the claimant did not appear to be sweating, shaking or exhibiting any signs of any medical condition.

The claimant drove herself home without incident. In preparation for her lunch she tested her blood sugar and found her numbers to be under the norm. The claimant did not notify the employer of her insulin level or that her medical condition may have caused her any side effects on February 7, 2012. On February 13, 2012, the employer terminated the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 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.

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. She intentionally added raw meat to cooked meat contaminating the employer's product causing the employer additional production costs.

The claimant asserts that she was not thinking clearly because her insulin numbers were low on February 7, 2012. The claimant did not check her insulin at the worksite on February 7, 2012. She did not mention problems with insulin levels to the employer or coworkers on February 7, 2012. After she left work and was preparing for a meal, the claimant checked her insulin and found her numbers to be under the norm but did not notify the employer.

The claimant did not provide sufficient medical evidence to prove that her actions were caused by her medical condition. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's March 21, 2012 decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css