

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUSAN M CARTER**  
Claimant

**APPEAL NO. 13A-UI-02273-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**  
Employer

**OC: 01/06/13  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated February 15, 2013, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on March 25, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Aureliano Diaz participated in the hearing on behalf of the employer. Exhibits One and Two were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a production laborer from January 8, 2007, to January 2, 2013. She was placed on a last chance agreement on October 4, 2012, after she discovered a piece of plastic while inspecting for foreign materials but did not immediately report it to management.

On January 2, 2013, one of the gloves the claimant was wearing ripped. She stuck the glove in her back pocket and went back to her workstation. The glove ended up falling out of her pocket and through a hole in the floor and was found in the trim blend room below where she was working. The claimant was not aware the glove had fallen out of her pocket.

The employer discharged the claimant on January 7, 2013, because her failure to report the missing glove was considered a violation of the last chance agreement.

**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).

No willful and substantial misconduct has been proven in this case. The claimant was unaware that the glove fell out of her pocket so there was no way for her to report it missing.

**DECISION:**

The unemployment insurance decision dated February 15, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs