

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTHA S MOSES

Claimant

APPEAL NO. 09A-UI-02938-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PACIFIC PROCESSORS INC

Employer

**Original Claim: 02/01/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 20, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A hearing was held on May 21, 2009, in Des Moines, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing with witnesses Jeff Roberts, James Payne, Elaine Moore, and Jon Lemke. David Martin participated in the hearing on behalf of the employer with witnesses Helen David and Heng Ngan. 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 as a packager for the employer from November 7, 2007, to January 29, 2009. The claimant was informed and understood that under the employer's work rules, fighting was grounds for termination. The employer had counseled the claimant about fighting and arguing with a coworker, Helen David.

On January 29, 2009, David became angry at the claimant when the claimant pushed meat products toward her that needed to be packaged. She yelled at the claimant to stop pushing meat toward her. The claimant explained to David that she was just trying to keep the products from piling up. Another employee reported to the supervisor that the claimant and David were fighting. The claimant was not fighting with David.

At the end of the day, the claimant left the work premises, got in her car, and drove out of the parking lot. As David left the building, she crossed in front of the claimant. The claimant stopped to let David pass in front of her. David began yelling at the claimant. She waited until David passed and then drove out of the parking lot. David went back in to the building and reported to a manager that the claimant had tried to run David down in the parking lot with her car and had got into an argument with her earlier in the day.

On January 30, 2009, the employer discharged the claimant for violating the employer's work rule against fighting.

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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony and do not believe David's testimony about what happened on January 30. I am convinced David thought she could get the claimant fired by reporting she tried to run David down in the parking lot and did not realize she would get fired too if she told management the two of them had been fighting earlier in the day. If the employer wanted to prove the claimant committed the act alleged, it should have called the employee who was in the parking lot with David.

DECISION:

The unemployment insurance decision dated February 20, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw