

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KURTIS M GREEN**  
Claimant

**APPEAL NO: 11A-UI-09579-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA MOLD TOOLING CO INC**  
Employer

**OC: 05/23/10  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's June 27, 2011 determination (reference 04) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant participated in the hearing with his witness, Josh Doty. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge finds the claimant 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 2009. He worked as a full time third-shift welder. During the last months of his employment, the employer did not allow employees to keep personal toolboxes at work. If an employee wanted to keep tools in a personal toolbox, the employer required the employee to take it home and bring it to work each day.

The claimant kept the tools he needed for work in a backpack. The backpack had his personal tools and the employer's tools. The claimant took the backpack home each day after work and brought it back to work every day. The claimant had no understanding that carrying his tools and the employer's tools in a backpack violated any policy.

On May 4, 2011, the first shift supervisor and a human resource representative told the claimant he had to leave. The employer thought or received information the claimant was stealing the employer's property. The claimant denied doing this. Initially, the claimant understood he would be temporarily laid off, but his layoff turned into a permanent layoff.

**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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

If the claimant stole the employer's property, he committed work-connected misconduct. The evidence presented at the hearing does not establish that he stole the employer's property. While taking all the tools he used at work home with him in a backpack may amount to poor judgment, this does not constitute work-connected misconduct. As of May 8, 2011, the claimant is qualified to receive benefits.

**DECISION:**

The representative's June 27, 2011 determination (reference 04) is reversed. The employer discharged the claimant, but the evidence presented at the hearing does not establish that the claimant committed work-connected misconduct. As of May 8, 2011, the claimant is qualified to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs