

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CONNIE F BRYDEN
Claimant

APPEAL NO. 16A-UI-11932-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUSCO SPORTS LIGHTING LLC
Employer

OC: 10/09/16
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Connie Bryden (claimant) appealed a representative's October 26, 2016, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Musco Sports Lighting (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 21 2016. The claimant participated personally. The employer participated by Angie Werner, Human Resources Representative, and Julie Sarver, Human Resources Project Manager.

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 January 30, 2006, as a full-time assembler. The claimant signed for receipt of the employer's handbook on January 30, 2006.

The claimant was supposed to test four machines for quality assurance purposes during her shift. After testing, she was to place her name and date on a log indicating she had performed the test. The claimant tested three or four machines at the start of her shift. Sometimes she tested the fourth machine at the end of her shift instead of the beginning of her shift. Sometimes she could not remember if she had tested the fourth machine at the beginning of her shift. The claimant always recorded that she tested all four machines for every shift she worked even if she did not test the fourth machine.

On September 27, 2016, the employer discovered the claimant had falsified the employer's testing logs on the fourth machine for a two month period. The last falsification occurred on September 23, 2016. The claimant recorded she had tested the fourth machine many times but the computer log showed she had not. The claimant admitted to forgetting sometimes. The employer investigated. It tested the machine and the computer. On October 11, 2016, the employer terminated the claimant for falsifying the company log.

REASONING AND CONCLUSIONS OF LAW:

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

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). As persuasive authority, the falsification of an activity log book constitutes job misconduct. Smith v. Sorensen, 222 Nebraska 599, 386 N.W.2d 5 (1986). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's October 26, 2016, 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/pjs