

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN R WOLF
Claimant

APPEAL NO. 12O-UI-03128-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 12/26/10
Claimant: Respondent (2-R)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Per Mar, filed an appeal from a decision dated December 16, 2011, reference 01. The decision allowed benefits to the claimant, John Wolf. After due notice was issued a hearing was held by telephone conference call on July 9, 2012. The claimant participated on his own behalf. The employer participated by General Manager Mike McElmeel. Exhibits A and B were admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

This matter was remanded for the limited purpose of accepting documents into the record which had not been received by the Appeals Section in a timely manner for the previous hearing held January 18, 2012.

The two exhibits offered by the claimant were written statements by Mr. Wolf dated November 4 and 9, 2011. No other exhibits were offered by the claimant. The admitted statements are largely redundant of the claimant's sworn testimony at the prior hearing. Where there is additional information it is irrelevant to the reasons the claimant was fired, only a tirade here and there against the employer regarding how his opinion differed as to how the business should be run. He stated he wanted to correct some dates because the prior testimony of the employer "had the dates all wrong." Mr. Wolf did not explain why he did not correct these dates in his testimony on January 18, 2012.

The remaining findings of fact from Appeal 11A-UI-16340-HT are adopted in this decision as though set out here in full.

REASONING AND CONCLUSIONS OF LAW:

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 reasoning and conclusions of law from Appeal 11A-UI-16340-HT are adopted in this decision as though set out here in full.

DECISION:

The representative's decision of December 16, 2011, reference 01, is reversed. John Wolf is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs