

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER E STROVERS**  
Claimant

**APPEAL NO: 14A-UI-08641-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HORMEL FOODS CORPORATION**  
Employer

**OC: 07/06/14**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(2)a – Discharge  
Iowa Code § 96.3(7) – Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's August 11, 2014 (reference 09) determination that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated at the September 9 hearing. Erin Montgomery, the plant controller, and Todd Yocum, the plant superintendent, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits and has been overpaid benefits.

**ISSUES:**

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid for benefits he has received since July 6, 2014?

Is the claimant required to pay back the overpayment of benefits?

**FINDINGS OF FACT:**

When the claimant completed the employer's application, he decided he would not list the short employment he had with PSSI in January 2014. The claimant started the job with PSSI for extra money. The one to three days he worked for PSSI, he worked at the employer's facility. The claimant quit this job because he did not like the work. The claimant did not report he had worked for PSSI at the employer's facility because he did not want to list an employer who he believed would give him a bad reference. When the claimant accepted the employer's offer, he quit his other full-time job. The claimant started working for the employer on May 30, 2014.

On July 3 the employer received information from a PSSI employee that the claimant had worked for PSSI at the employer's plant in January. The employer and PSSI have an agreement that neither employer will hire employees who worked for either one of them for two years. When the employer talked to the claimant, he admitted he had worked for PSSI in January 2014.

On July 7 the employer discharged the claimant for falsifying his employment application by failing to report he had worked for PSSI. The claimant did not even mention that he had worked at the employer's plant when the employer asked the claimant what he knew about the employer's plant during the claimant's interview.

The claimant established a claim for benefits during the week of July 6, 2014. The employer participated at the fact-finding interview. The claimant filed claims for the weeks ending July 12 through September 13, 2014. He received a gross benefit payment of \$2,518.00 for these weeks.

**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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant intentionally failed to report on his employment application, and during an interview, that he had previously worked for PSSI at the employer's plant. If the employer had known the claimant worked for PSSI in January 2014, the employee would not have been hired because of the agreement between the employer and PSSI. The claimant's failure to report his PSSI employment amounts to an intentional disregard of the standard of behavior the employer has a right to expect from an employee. The employer established the claimant was discharged for work-connected misconduct. As of July 6, 2014 the claimant is not qualified to receive benefits.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b.

Based on this decision, the claimant is not legally entitled to receive benefits as of July 6, 2014. He has been overpaid \$2,518.00 in benefits he received for the weeks ending July 12 through September 13, 2014. The employer participated at the fact-finding interview. Therefore, the claimant is responsible for paying back the overpayment of benefits he has received.

**DECISION:**

The representative's August 11, 2014 (reference 09) determination is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. As of July 6, 2014 the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant has been overpaid \$2,518.00 in benefits he received for the weeks ending July 12 through September 13, 2014. The claimant is required to pay back this overpayment.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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