

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARC B MORRIS
Claimant

APPEAL NO: 14A-UI-02632-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 02/02/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 26, 2014 determination (reference 01) that disqualified him from receiving unemployment insurance benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the April 1 hearing. The employer was called for the hearing, but no one participated on the employer's behalf. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is 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 April 2013. He worked as a full-time forklift operator.

Shortly before January 2, 2014, the last day the claimant worked, the employer required him to take a drug test. The claimant took the requested test, but no one contacted him with the results of the test. On January 3, 2014, the claimant contacted the employer to report he was ill and unable to work. The claimant went to a doctor and had a doctor's statement to give to the employer.

The claimant's work schedule is on-line. When he checked his schedule on Sunday, January 5, he was not scheduled to work. The claimant called the employer to find out why he was not scheduled. The person the claimant talked to told him that he no longer worked for the employer. The claimant established a claim for benefits during the week of February 2, 2014.

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).

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 employer may have had business reasons for discharging the claimant. The evidence presented at the hearing does not establish that the claimant committed work-connected misconduct. Therefore, as of February 2, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's February 26, 2014 determination (reference 01) is reversed. The employer may have had business reasons for discharging the claimant, but the evidence does not establish that he committed work-connected misconduct. As of February 2, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css