

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 05A-UI-03358-H2T  
OC: 02-27-05 R: 02  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 25, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 20, 2005. The claimant did participate through the interpretation of Guadalupe McCarney. The employer did participate through Jeremy Cook, Human Resources Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a production worker full time beginning March 4, 2003 through March 2, 2005 when she discharged. The claimant was discharged for insubordination on March 2, 2005 when she refused to follow Supervisor Nora Rico's instructions to put the loins

she was working on in a barrel instead of back on the line. Ms. Rico gave the instruction because the USDA agent in the plant instructed the employer that the line was too full and meat needed to be pulled from it. If the employer fails to follow the instruction from the resident USDA personnel in the plant, they subject themselves to fines and possibly the closing of their business. Two other employees witnessed the claimant's actions: Fred Juarez and Polly Carl who each reported their observations to Mr. Cook. Because the claimant refused to put the loins in the barrel, the Supervisor had to perform the act herself. The claimant had been previously suspended for insubordination for arguing with her Supervisor and the USDA agent on February 28, 2005. The claimant was off work until March 1, 2005. When she returned to work on March 1, 2005, Mr. Cook specifically told the claimant that any further instances of insubordination would result in her discharge.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

An employer has a right to expect employees to conduct themselves in a certain manner. The claimant disregarded the employer's rights by arguing with her Supervisor about an instruction to put the loins in a barrel instead of back on the line. The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985). The employer had no choice but to follow the instructions of the USDA personnel who are onsite at the plant. Had the employer not followed the instructions they faced fines and possible business closure. At hearing the claimant denied that on March 2, 2005 she ever argued with the Supervisor and she indicated that when told to do so she immediately put the loins in the barrel. The employer's investigation from two other employees is more persuasive to the administrative law judge. The claimant's testimony is not as credible in light of her previous discipline for similar conduct. The claimant's disregard of the employer's rights and interests is insubordination and sufficient misconduct to disqualify her from receiving unemployment insurance benefits. Benefits are denied.

#### DECISION:

The March 25, 2005, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

tkh/pjs