

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HARLEY R URBATSCH
Claimant

WINNEBAGO INDUSTRIES
Employer

APPEAL NO. 14A-UI-08633-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/20/14
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 11, 2014, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on September 9, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time for the employer as a tour guide for the employer from April 2013 to July 18, 2014. The employer discharged the claimant on July 18, 2014, because a guest on a tour had complained to management that the claimant had yelled at someone and had made a comment about the employer's pre-employment drug testing.

The claimant had jokingly informed someone on the tour who was asking about how many people worked for the employer that the employer had pre-employment drug testing to screen out drug users. He had heard other tour guides making similar comments and did not know that it was inappropriate. He never yelled at anyone on the tour.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such

degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated August 11, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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