

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY D HAUENSTEIN
Claimant

APPEAL NO. 08O-UI-00865-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 09/23/07 R: 03
Claimant: Respondent (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Pella Corporation, filed an appeal from a decision dated October 12, 2009, reference 01. The decision allowed benefits to the claimant, Gary Hauenstein. After due notice was issued, a hearing was held by telephone conference call on February 20, 2008. The claimant participated on his own behalf and with witnesses Lyle Riggs. Loretta Watson acted as representative. The employer participated by Human Resources Representative Eric Johnson, Department Manager Shelby Schneider and Facilitator Patricia Griffith. Exhibits One, Two and Three 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:

Gary Hauenstein was employed by Pella from September 7, 1999 until July 27, 2007, as a full-time operator. He received a copy of the employee handbook and updates during his employment. The handbook provides for different classes of rules and policies and Class One violations warrant immediate discharge. Falsification of company documents is a Class One violation.

During each work period the facilitator or the department manager enters each employee's work hours into the computer. At the end of the pay period the time records are printed out and each employee must initial the time sheet to confirm the information is correct. On July 23, 2007, the claimant was to sign off on the time sheet for the previous week, July 16 through 20, 2007. He notified Facilitator Patricia Griffith no hours had been entered for him for July 20, 2007. Ms. Griffith asked him how many hours and he said six. She questioned him and he confirmed he had worked six hours.

The time sheet was then forwarded to Department Manager Shelby Schneider who also questioned the number of hours for July 20, 2007, because no one else in the department had worked more than five hours that day. She referred the matter to Human Resources

Representative Eric Johnson who then met with the claimant. At that time Mr. Hauenstein admitted he had worked only four and one-half hours on July 20, 2007. He claimed he had been preoccupied at the time Ms. Griffith asked him about the hours and had based his answer on the number of hours he had been scheduled, not the amount he had actually worked.

He was suspended pending the issuing of a Class One disciplinary action. The action must be approved by five different levels of management, and was approved effective July 23, 2007, and Mr. Hauenstein was notified by Mr. Johnson by phone and then certified letter.

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 claimant acknowledged he had told his facilitator he worked six hours on July 20, 2007, when in fact he had worked only four and one-half hours, and confirmed the incorrect figure even after being questioned. His defense was that he suffers from anxiety disorder but did not explain how that would prevent him from knowing the number of hours he worked on a certain day. Mr. Hauenstein also presented evidence from other employees that they had been allowed to change the number of hours on their time sheets even after signing off on them, but none of these other employees worked in the same department as the claimant and were not subject to the same guidelines. In addition, these other employees claimed the time sheets were brought around to them for signature at their work stations and they often did not have time to look over the sheets carefully before signing. However, in the claimant's department the time sheets are

on the facilitator's desk and the employees come to the desk to look over the information before signing.

Mr. Hauenstein claims to have been "distracted" on the day in question because some changes were occurring in the workplace and he was also upset because the supervisor had not consulted with him about the changes. There is nothing in the record to establish the supervisor was obliged to consult with the operators before making any changes. There is also nothing to establish the claimant was being asked to conduct other business at the time he signed his time sheet. The signing is done at the facilitator's desk, not out on the work floor, and he was not so distracted he did not have the awareness to point out that no hours had been entered for him on July 20, 2007.

The record does establish the claimant gave, then confirmed, incorrect information to the employer regarding the number of hours he had worked on the day in question. But the issue is whether this was a willful and deliberate falsification of the time records. The employer has failed to establish this was anything but an error on the claimant's part, that for whatever reason he had focused on the number of hours he was scheduled to work, not the number he actually did work. This also appears to have been a one-time error in judgment and as such does not constitute misconduct sufficient to warrant a denial of unemployment benefits.

DECISION:

The representative's decision of October 12, 2007, reference 01, is affirmed. Gary Hauenstein is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css