

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTWAN E SNEED**

Claimant

**APPEAL NO: 13A-UI-09849-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 07/28/13**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Antwan E. Sneed (claimant) appealed a representative's August 21, 2013 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Tyson Fresh Meats, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 1, 2013. The claimant participated in the hearing. Chris Rossiter appeared on the employer's behalf and presented testimony from one other witness, Troy Smith. One other witness, Micah King, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on August 26, 2008. Since about the end of January 2013 he worked full time as rendering operator on the third shift at the employer's Columbus Junction, Iowa pork processing facility. His last day of work was the shift that began on the evening of July 31 and ended on the morning of August 1, 2013. The employer suspended him on the morning of August 1 and discharged him on August 2, 2013. The stated reason for the discharge was insubordination and refusing to follow the instructions of a supervisor.

Smith, the maintenance supervisor, was the supervisor in charge of the maintenance and rendering departments in the early morning hours of August 1. At about 4:00 a.m. he received a call from the lead person asking for assistance directing the claimant to perform some work. Smith went to the work area, and personally instructed the claimant to clean up the cracks that

had come out of the dryer. The claimant adamantly refused, using vulgar language, saying that the first and second shift employees had left the mess and he was not going to clean it up. At that point it did not matter to Smith who had created the mess, it needed to be cleaned up, and he again instructed the claimant to clean up the mess. The claimant again refused, using vulgar language. Smith left briefly to consult with another supervisor as to what to do, but returned a few minutes later with another supervisor, King. He then again told the claimant that at that time it was his responsibility to clean up the mess; the claimant again vehemently refused, using vulgarities. Smith then told the claimant to leave, that he was suspended, and that he would need to visit with the human resources direct. When the claimant did visit with the human resources director on August 2, he was informed that he was discharged.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's insubordination through his repeated and vehement refusal to comply with a reasonable instruction shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's August 21, 2013 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of July 31, 2013. This disqualification continues until the claimant 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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