

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAVIS A MCCABE
Claimant

APPEAL NO. 10A-UI-05865-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC
Employer

OC: 03/21/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 13, 2010, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on June 21, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Rick Wood participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a maintenance worker from June 3, 1999, to March 17, 2010. He was informed and understood that under the employer's work rules, employees who failed to properly lock out and tag out equipment before working on it were subject to termination. The claimant received a three-day suspension for a lock-out/tag-out violation in February 2007, and a one-day suspension and final warning for a lock-out/tag-out violation in February 2009.

On March 17, 2010, the claimant was assisting another maintenance worker who was working on a pump. He neglected to put his lock on the machine, but was required to under the policy even though the other worker had put his lock on.

The worker got his hand caught when he was removing the rotor. The claimant was required to reach into the equipment to free the worker's hand. The claimant's supervisor later noticed that the claimant was working on the pump and asked him if he had his lock on the pump. He admitted that he did not have his lock on the pump.

The employer discharged the claimant on March 19, 2010, for violating the lock-out/tag-out procedures after receiving prior warnings for similar conduct.

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).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. The lock-out/ tag-out policy is meant to make sure anyone who works on a piece of equipment absolutely knows that it is locked out. The claimant ended up reaching into a piece of equipment relying on the fact that his coworker had his lock on, which is what the policy is intended to prevent. The claimant admitted that he knew that he should have had the machine locked out.

DECISION:

The unemployment insurance decision dated April 13, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css