

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

CLAYTON L HAYES  
#1 BUNGALOW CT  
NEWTON IA 50208

JELD-WEN INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03768-DWT  
OC 12/07/03 R 02  
Claimant: Respondent (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, 4<sup>th</sup> 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 are 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

STATEMENT OF THE CASE:

Jeld-Wen, Inc. (employer) appealed a representative's March 26, 2004 decision (reference 02) that concluded Clayton L. Hayes (claimant) was qualified to receive unemployment, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2004. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Scott Pease testified on the employer's behalf and Brad Harris and Curt Strawser were available as witnesses. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 8, 2002. He worked as a full-time laborer. Strawser was his supervisor.

Pease understood the claimant had a short temper. On February 24, 2004, the employer received reports from employees the claimant harassed and verbally abused a co-worker. Although the claimant was visually upset when Pease asked him to his office, the claimant did not appear irrational. After the claimant told Pease what had happened and that the other employee triggered the incident by giving the claimant the finger, Pease asked the claimant if the co-worker really gave him the finger. The claimant became very upset and angry over this question. He raised his voice, used profanity and told Pease he was not going to let anyone call him a liar. The claimant would not calm down. He was very agitated and visually upset. Finally, Pease told the claimant he needed to calm down and that he was discharged. The claimant had not previously gotten so upset at work or with Pease. After the claimant indicated Pease did not have the authority to discharge him, Pease went to get Harris. When Pease and Harris arrived, the claimant appeared calmer. Harris escorted the claimant to his vehicle because Pease had discharged him.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant. Even though Pease realized the claimant had a short temper, he made a comment that questioned the claimant's integrity or honesty. Since he was already upset, Pease's comment sent the claimant over the top to the point he lost control. Even though the claimant was known to have a short temper, he had never previously received a written warning that his job was in jeopardy if he lost his temper at work. The claimant used extremely poor judgment when he lost his temper. At that point, the claimant did not act rationally. It is understandable that Pease became frustrated with

the claimant and questioned what the claimant was going to do next in his uncontrolled state. Pease discharged him when the claimant would not calm down. For unemployment insurance purposes, the claimant's hotheaded incident on February 24 does not rise to the level of work-connected misconduct. Therefore, as of February 22, 2004, he is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 26, 2004 decision (reference 02) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 22, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjf