

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS J AMAYA
Claimant

APPEAL NO. 11A-UI-03484-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

**OC: 02/06/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 11, 2011, reference 01, that concluded the claimant's discharge was not for work connected misconduct. A telephone hearing was held on April 11, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Aureliano Diaz participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a production worker for the employer from July 27, 2009, to February 9, 2011. The claimant was informed and understood that under the employer's work rules, destruction of company property was grounds for discipline

On February 8, 2011, the claimant had purchased a snack from the vending machine. The snack became stuck on the spiral-dispensing coil in the vending machine. When the claimant shook the vending machine to dislodge the item, the glass front broke. The claimant did not deliberately damage the vending machine or forcefully shake the machine.

The employer discharged the claimant on February 9, 2011, for destruction of company property.

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).

No willful and substantial misconduct has been proven in this case. At most the evidence shows an isolated incident of negligence which does not rise to the level of disqualifying misconduct under the unemployment insurance law.

DECISION:

The unemployment insurance decision dated March 11, 2011, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs