

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL P SCHAULS

Claimant

APPEAL NO. 08A-UI-06535-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE PLATING LC

Employer

**OC: 06/08/08 R: 03
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Riverside Plating, filed an appeal from a decision dated July 7, 2008, reference 01. The decision allowed benefits to the claimant, Michael Schauls. After due notice was issued a hearing was held by telephone conference call on July 30, 2008. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Vice President Jay Schultz.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Michael Schauls was employed by Riverside Plating from July 23, 2007 until June 6, 2008 as a full-time laborer. During the course of his employment he received several verbal warnings from Vice President Jay Schultz about tardiness. He would be late due to car problems, "not feeling well," and other excuses. The employer notified him his job could be in jeopardy if his attendance did not improve.

On June 3, 2008, the claimant punched out for his lunch break and did not return to work. He had left some parts in the plating tank over the lunch period and, because he did not return to remove them in a timely manner, they had to be stripped and re-plated, costing the employer more money for the time and materials.

Mr. Schauls did not return to work until June 6, 2008, to pick up his pay check. Mr. Schultz questioned him about why he had left and he had no response except he simply "did not come back." He was notified at that time he was discharged.

Michael Schauls filed a claim for unemployment benefits with an effective date of June 8, 2008. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

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 was discharged for leaving his job and not returning. He left for the remainder of the work day without notice to or permission from a supervisor or manager, then was no-call/no-show to work for two days. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and is conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of July 7, 2008, reference 01, is reversed. Michael Schauls is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs