

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL L CONE**  
Claimant

**APPEAL 18A-UI-00289-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEABOARD FOODS SERVICES INC**  
Employer

**OC: 12/10/17  
Claimant: Respondent (2)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 29, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2018. Claimant did not respond to the hearing notice instruction by registering for the hearing and did not participate. Employer participated through human resource manager Erin Hyde and manager Joe Miller.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time team member in the hog-raising business through December 5, 2017. His last day of work was December 1, 2017. On that date, he left the barn to get a feed blockage cleared. He did not shower back in when returning to the animal confinement area. Employees are required to enter the building and go through either the men's or women's lockerroom to shower before entering the office area or one of two breeding or two farrowing barns. Team member breeding lead Brandy Sullivan questioned him and he admitted it. He also confirmed the report when Miller confronted him. Employees are strictly required to shower back into the animal confinement area according to the written biosecurity protocol to prevent the spread of diseases, which would be extremely costly to the employer. The policy calls for discipline up to termination upon one violation. The handbook policies and biosecurity were covered in orientation and training August 18, 2017, as well as through ongoing training thereafter. Claimant did not claim and was not paid any weeks of unemployment insurance benefits since filing the claim effective December 10, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5(2)a provides:

**Causes for disqualification.**

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer is entitled to establish reasonable work rules and expect employees to abide by them. The employer has presented substantial and credible evidence that claimant violated the strict biosecurity policy by failing to shower before reentering the animal confinement area and risked spreading disease. This is disqualifying misconduct, even without prior warning.

**DECISION:**

The December 29, 2017, (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Since no benefits were claimed or paid, no overpayment is established.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs