

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSE COREAS**

Claimant

**APPEAL NO: 12A-UI-08501-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**

Employer

**OC: 06/15/12**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated July 13, 2012 reference 01 that held he was discharged for misconduct on June 18, 2012, and benefits are denied. A telephone hearing was held on August 8, and August 30, 2012. The claimant, and Interpreters, Anna Pottebaum, Patricia Vargas, participated. Nikki Bruno, HR Supervisor, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment as a full-time production worker on September 2, 2010, and last worked for the employer on June 11, 2012. He was suspended on June 12 and then discharged on June 18.

The claimant received an employee handbook that contained the policies of the employer. The employer issued claimant a written warning on October 18, 2011 regarding his conduct and behavior toward a female co-worker. The warning advised claimant he needed to behave in a professional manner, have only work-related communications with the co-worker, show dignity and respect, and not retaliate to her in any manner.

A supervisor received a report on June 7, 2012 claimant had initiated a conversation with the female co-worker that was not work related. Claimant did not report the incident to the employer. He was suspended on June 12 pending an employer investigation and discharged on June 18.

Claimant was not available when called for the re-scheduled hearing on August 30.

## **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 administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on June 18, 2012, for a repeated violation of inappropriate behavior with a female co-worker.

The employer issued claimant a written warning for inappropriate behavior with a female co-worker and it set forth the boundaries he was to follow. He violated the standard of behavior boundaries by initiating a non-work-related conversation with the female employee and creating a disturbance. Job disqualifying misconduct is established.

**DECISION:**

The department decision dated July 13, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on June 18, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs