

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERTO G GONZALES
Claimant

APPEAL NO. 12A-UI-10175-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASSOCIATED MATERIALS LLC
Employer

OC: 12/25/11
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Roberto Gonzales, filed an appeal from a decision dated July 24, 2012, reference 04. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on September 17, 2012. The claimant participated on his own behalf. The employer, Associated Materials, participated by Human Resources Manager Mark Grenko.

ISSUE:

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

FINDINGS OF FACT:

Roberto Gonzales was employed by Associated Materials from December 30, 2010 until July 2, 2012 as a full-time production worker. During the course of his employment he received the employee handbook. The employer's policies include a zero-tolerance for fighting on the job.

On June 30, 2012, the claimant became involved in a verbal and physical altercation with another employee in the work place. Both were suspended and, after an investigation, discharged on July 2, 2012, for violation of the zero-tolerance policy.

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 aware of the employer's zero tolerance policy. The employer has the obligation to provide a safe and harassment-free work environment for all employees and the claimant's conduct interfered with its ability to do so. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 24, 2012, reference 04, is affirmed. Roberto Gonzales is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs