

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCELLA ANDERSON
Claimant

APPEAL NO. 13A-UI-11923-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN DEERE
Employer

OC: 01/06/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 21, 2013, (reference 03) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on December 4, 2013. Claimant participated. Employer did participate through Jim Rottinghouse, Paul Blalock and Mary Krampe. Employer's Exhibit A through D were entered and received into the record.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a painter beginning on July 12, 2010 through September 30, 2013 when he was discharged. The claimant reported a work-related back injury to the employer in March 2013. He was seen for treatment by the company nurse, the company physician assistant and outside medical providers. The claimant told both the nurse, Donna Westbrook and the physician's assistant, Von Miller, that he had never had a back injury before. The employer was conducting an investigation into the claimant's alleged injury when they learned that he could have had a workers' compensation claim in the state of Minnesota. The employer had to secure the claimant's permission to review his records from Minnesota. When the claimant learned that the employer was trying to secure records from Minnesota he asked to drop his work-related injury claim. The claimant knew that the employer was going to discover his misrepresentation if they obtained records from the state of Minnesota. Eventually in September 2013 the employer received over 600 hundred pages of prior medical records from the claimant's prior workers' compensation settlement for a back injury in the state of Minnesota. It took the employer time to go through the hundreds of pages but when they did so, it became clear that the claimant had lied to the employer about his prior back injury. The claimant had many opportunities to disclose his prior back injury to the employer but did not do so. The claimant had signed documentation in 2009 indicating that he had a back injury while working for another employer. The claimant was discharged by the employer for lying to them about his medical history.

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 § 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to be honest with them in their dealings. The claimant lied to the employer repeatedly about his prior back injury in another state for which he had been paid workers' compensation benefits. The claimant's actions amount to substantial misconduct sufficient to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The October 21, 2013, (reference 03) decision is affirmed. 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css