

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID W SHOUGH**  
Claimant

**APPEAL NO. 07A-UI-01383-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HUNTER FARMS**  
Employer

**OC: 01/07/07 R: 02**  
**Claimant: Respondent (1)**

Section 96.5-2- a- Discharge

**STATEMENT OF THE CASE:**

Hunter Farms (employer) appealed a representative's January 31, 2007 decision (reference 01) that held David W. Shough (claimant) qualified to receive unemployment insurance benefits, and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 22, 2007. The claimant participated in the hearing. Marjorie Sims, the office manager, and Janice Welker appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in June 2005. The employer hired the claimant to work as a carpenter supervisor. The claimant was laid off from work in late 2005, but returned to work on April 1, 2006. When the claimant returned to work, the employer knew he had a work permit because his license had been suspended. The employer helped the claimant obtain a work permit.

There were times during his employment that the claimant picked up another employee in his personal vehicle and brought him to work. At other times, the claimant drove the employer's vehicle from one location to another. After the employer's insurance company informed the employer the claimant would not be covered to drive the employer's vehicle, the employer discharged the claimant on May 9, 2006. The employer was concerned about potential liability if the claimant continued to work for the employer.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established compelling business reasons for discharging the claimant. The claimant did not, however, commit work-connected misconduct. The employer knew when the claimant returned to work in April 2006 that he had a work permit because his license had been suspended. It can only be assumed the employer's insurance company would not insure the claimant because his license had been suspended. Since the employer knew about the status of the claimant's license in early April, the facts do not establish that the claimant committed work-connected misconduct. As of January 7, 2007, the claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's January 31, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of January 7, 2007, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw