

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

GREGORY A WOLFE
1995 GEORGE DR
MARION IA 52302

REMEDY INTELLIGENT STAFFING INC
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04A-UI-00873-CT
OC: 12/14/03 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Remedy Intelligent Staffing, Inc. (Remedy) filed an appeal from a representative's decision dated January 15, 2004, reference 01, which held that no disqualification would be imposed regarding Gregory Wolfe's separation from employment. After due notice was issued, a hearing was held by telephone on February 16, 2004. Mr. Wolfe participated personally. The employer participated by Kim Ordaz, Staffing Consultant. Exhibits One and Two were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Wolfe began working for Remedy in July of 2003. On July 28, he was placed on a long-term assignment with General Mills. He was discharged because of what was felt to be a breach of confidentiality.

On December 12, Mr. Wolfe was acting as a substitute team leader. The team he worked with sometimes had to place product in receptacles to either be re-processed, given to food banks, or turned into agricultural waste. On December 12, Mr. Wolfe asked an operator whether a fruit product was the same mixture for all products of that flavor regardless of what shapes were stamped in the product. He wanted to know if the various shapes of one flavor could be put into the same receptacle. He did not request any proprietary information or trade secrets. He only wanted to know how to sort product. As a result of this question, General Mills asked that he be removed from the assignment. Remedy did not offer him a different assignment and no longer considers Mr. Wolfe an employee.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Wolfe was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Wolfe was discharged based on an allegation that he breached the policy regarding confidentiality. It is certainly true that Mr. Wolfe would be prohibited from sharing with a third party any proprietary information gained during the course of his work with General Mills. To do so would constitute a breach of the rules of confidentiality. However, Mr. Wolfe did not provide any outside source with any information gained in the course of his work. He testified that he was told he was being discharged because of a conflict of interests. There was no evidence that he had outside interests which conflicted with his work at General Mills or might adversely impact General Mills.

Mr. Wolfe asked a question only to make sure that his crew was performing its work correctly. Asking whether the mixture was the same for the different shapes is not the same as asking what the ingredients are or how the mixture was formulated. Inasmuch as the question asked related directly to the performance of his job, it was not misconduct to ask it. For the reasons stated herein, it is concluded that disqualifying misconduct has not been established. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated January 15, 2004, reference 01, is hereby affirmed. Mr. Wolfe was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjf