

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROGER L DILLINGER
Claimant

WIESE INDUSTRIES INC
Employer

APPEAL 15A-UI-00533-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/14/13
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 16, 2014, (reference 01) unemployment insurance decision that denied benefits. A telephone hearing was scheduled to be held on February 6, 2015. Prior to the hearing being held, the administrative law judge determined based upon agency records no hearing was necessary.

ISSUE:

Has the claimant requalified for benefits since his separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was separated from employment with this employer in April 2014. The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for reasons related to job misconduct but has since requalified for benefits by earning over ten times his weekly benefit amount.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Accordingly, benefits are allowed, provided the claimant is otherwise eligible and the account of the employer shall not be charged.

DECISION:

The May 16, 2014 (reference 01) decision is modified in favor of the appellant. The claimant was discharged from employment for reasons related to job misconduct, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs