

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIN J KELLY
Claimant

APPEAL NO: 12A-UI-08474-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON RETAIL DELI MEATS INC
Employer

OC: 06/17/12
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 6, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Matt Chase, the hourly employees' employment manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in May 2000. He began his job as a support manager for the parts and supply room four years ago. During the last four years of his employment, his annual performance reviews did not indicate any problems.

During his employment, the claimant received a verbal warning for failing to wear no-cut gloves when he cut cardboard. In May 2012, he received a written warning for not pulling his weight. The claimant believed he always worked to the best of his ability.

In early June 2012, the supply room received new labels. In the past, the claimant's supervisor emailed him or flagged new labels that were different. This was not done with these labels. The claimant sent a sample of the new labels to the quality assurance department. The new label was approved. The new label reflected a change in one ingredient. The new label was used on product that did not have the new ingredient. As a result of using the wrong label on products, three truckloads of the product had to be returned.

When the claimant returned from vacation on June 20, the employer discharged him for failing to follow the proper procedure, which resulted in the wrong labels being used on product. On June 20, the employer also told him about paperwork discrepancies.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of June 17, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's July 6, 2012 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of June 17, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw