

**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**

**JEROD W ROGGENTIEN  
1308 O AVE  
MARENGO IA 52301**

**VICTOR PLASTICS INC  
2135 B AVE  
VICTOR IA 52347**

**JEFFREY RITCHIE  
ATTORNEY AT LAW  
PO BOX 212  
MARENGO IA 52301**

**Appeal Number: 04A-UI-10185-CT  
OC: 08/22/04 R: 03  
Claimant: Appellant (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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Jerod Roggentien filed an appeal from a representative's decision dated September 13, 2004, reference 01, which denied benefits based on his separation from Victor Plastics, Inc. After due notice was issued, a hearing was held by telephone on October 14, 2004. Mr. Roggentien participated personally and was represented by Jeffrey Ritchie, Attorney at Law. Exhibits A through N were admitted on Mr. Roggentien's behalf. The employer participated by Joyce Gitsch, Human Resources Manager. Exhibits One through Eight 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. Roggentien was employed by Victor Plastics, Inc. from November 1, 1999 until August 23, 2004 as a full-time apprentice toolmaker. He was discharged from the employment.

On July 15, 2004, Mr. Roggentien was placed on a "last chance" agreement which advised that he would be discharged if his job performance did not improve or his work hours were not approved by his manager or foreman. The agreement was based, in part, on Mr. Roggentien's failure to work the required number of hours each week. He had received a warning on February 6, 2004 for leaving work without notifying a supervisor. The agreement recited the fact that he had continued to come in late and leave early in March and again in May.

Mr. Roggentien came to work on Saturday, August 21, in order to complete his 50-hour week. He told a co-worker that he only intended to be at work for a couple of hours. Mr. Roggentien and Paul Davies, tool room manager, had completed work on a press when Mr. Davies indicated they needed to make pieces for a cooling fixture. Mr. Davies stated that he was going up to the press and that Mr. Roggentien should follow. Instead, Mr. Roggentien left and went home without notifying Mr. Davies that he would be unable to assist him. He left because he had his required hours in. The employer met with Mr. Roggentien on August 23 to discuss why he left without notifying Mr. Davies on August 21. He did not offer any justification. The employer considered his conduct of August 21 to be insubordinate and, therefore, discharged him on August 23, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Roggentien 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. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Roggentien was discharged because he left work on August 21 without notifying the supervisor of his intentions. He was not discharged because of a refusal to work overtime. He was discharged because he did not say anything about not being able to work overtime. He knew that Mr. Davies was expecting him to follow him to the next work site. Rather than telling Mr. Davies that he could not continue working, Mr. Roggentien simply left and went home. He did not tell Mr. Davies that he was leaving because he had his hours in for the week. When he met with the employer on August 23, he did not tell the employer that he believed Mr. Davies knew he was leaving. He did not offer the employer any justification for his actions.

Mr. Roggentien knew that his continued employment was in jeopardy by virtue of the "last chance" agreement. His conduct in leaving work without notice to the supervisor when he knew he was expected elsewhere in the plant constituted a substantial disregard of the standards of behavior the employer had the right to expect. It is concluded, therefore, that disqualifying misconduct has been established and benefits are denied.

#### DECISION:

The representative's decision dated September 13, 2004, reference 01, is hereby affirmed. Mr. Roggentien was discharged for disqualifying misconduct in connection with his

employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/tjc