

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY J WEGNER
Claimant

APPEAL NO. 13A-UI-06879-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 01/13/13
Claimant: Respondent (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 2, 2013, reference 07, that concluded the claimant's discharge on April 1, 2013, was not for work-connected misconduct. A telephone hearing was held on July 11, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Maria May participated in the hearing on behalf of the employer with a witness, Anna Weber.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 13, 2013. He has not filed any weekly claims for unemployment insurance benefits since January 26, 2013.

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer on an assignment at MetoKote Corporation from March 11 to April 1, 2013.

He was removed from the assignment on April 2, 2013, because he called in sick on March 18, was absent on March 26, was late to work on March 28, and had a cellphone in a meeting on April 2 in violation of the employer's work rules.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the

contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

The employer presented evidence about the claimant leaving another assignment at the end of April, but that was not the separation about which the decision was made on May 2, 2013. I have decided the claimant would not have had notice that this separation was being adjudicated in this appeal. If the employer wishes to protest based on this separation, it should file a Form 60-0154, Notice of Separation.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

DECISION:

The unemployment insurance decision dated May 2, 2013, reference 07, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css