

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RYAN LOOFBOURROW**  
Claimant

**APPEAL NO. 11A-UI-00475-WT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**  
Employer

**OC: 11/28/10  
Claimant: Appellant (5)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a representative's decision dated December 30, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 15, 2011. Claimant did not appear for the hearing. Employer participated by its representative, Nikki Bruno.

**ISSUES:**

The first issue is whether the claimant quit or was discharged.

If the claimant quit, the issue is whether the claimant had good cause attributable to the employer.

If the claimant was discharged, the issue is whether claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds as follows. Claimant began employment for West Liberty Foods on or about July 26, 2010. Claimant last worked for employer on November 30, 2010. He performed assembly-line production labor work at a meat processing facility with approximately 800 employees.

Claimant was discharged on December 1, 2010 by employer because he left work early and without permission. On November 29, 2010, the claimant began his normal shift at approximately 3 p.m. His shift regularly ended at 11:30 p.m., but occasionally workers were required to work late. The work ended for the claimant's line at 1:30 a.m. on November 30, 2010. The claimant clocked out without obtaining the permission of or even informing his supervisor at 12:47 a.m., approximately 45 minutes early.

Claimant called in sick for his shift on November 30 and next reported for work on December 1, 2010. When the claimant reported for work, the employer conducted a reasonable

investigation. The claimant told the employer that he had asked another employee, Mr. Woodward, to cover his shift. This was not done according to the rules or the normal protocol, but it was his explanation for leaving without permission. During this meeting, claimant conceded he did not follow protocol. Mr. Woodward denied that he had been asked to cover claimant's shift.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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.

871 IAC 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.

In this matter, the employer's testimony established that claimant did not quit. Rather, he was discharged for an act of misconduct when he left work early without permission and contrary to the established protocol. Claimant stated during the investigation that he asked a co-worker to work on his behalf. According to credible, unrebutted testimony from the employer, this was not allowed by protocol without the approval of a supervisor. Moreover, the individual from whom the claimant sought assistance did not corroborate his version of the events. Claimant's actions in this matter amount to insubordination or walking off the job. In a production line setting, without a viable mitigating explanation, this amounts to work-related misconduct.

**DECISION:**

The representative's decision dated December 30, 2010, reference 01, is modified. The claimant did not quit his employment with West Liberty Foods. Rather, he was fired for misconduct. Claimant is still ineligible to receive unemployment insurance benefits. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Joseph L. Walsh  
Administrative Law Judge

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Decision Dated and Mailed

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