

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREW P ECKRICH**  
Claimant

**APPEAL NO. 10A-UI-13229-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRO INC**  
Employer

**OC: 07/11/10**  
**Claimant: Appellant (2-R)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Andrew Eckrich, filed an appeal from a decision dated September 16, 2010, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 9, 2010. The claimant participated on his own behalf and was represented by Iowa Legal Aid in the person of Derek Johnson. The employer, Centro, participated by Human Resources Leader Rhonda Griffin and Human Resources Administrative Assistant Tracy Lennon.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Andrew Eckrich was employed by Centro from October 6, 2008 until April 27, 2010 as a full-time product inspector working 3:00 p.m. until 11:00 p.m. He was granted FMLA for a non-work-related medical condition from November 30 through December 7, 2009, January 15 through March 8, 2010, and March 16 through April 27, 2010.

His doctor had released him to return to work in March 2010 but with restrictions which made it impossible for him to perform his regular job duties. His FMLA then expired April 27, 2010 and he was notified at that time by Human Resources Leader Rhonda Griffin he was discharged.

On May 13, 2010, the claimant was released to return to work without restrictions but he did not return to Centro to apply for another job. He has subsequently enrolled in school with class times from 12:00 p.m. until 4:00 p.m. two days a week. He has not applied for Division Approved Training from Iowa Workforce Development though he continues to file weekly claims for benefits.

**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.

The claimant was discharged because he was not released to return to work without restrictions by the time his FMLA had all been used. This is not a willful and deliberate course of conduct as Mr. Eckrich has no control over the amount of time necessary to recover from his injury. As there was no misconduct, disqualification may not be imposed.

The issue of whether the claimant is able and available for work now that he is enrolled in school, given the hours he is in class and the hours during which he earned his base period wages, should be remanded.

**DECISION:**

The representative's decision of September 16, 2010, reference 02, is reversed. Andrew Eckrich is qualified for benefits, provided he is otherwise eligible.

The issue of whether the claimant is eligible for unemployment benefits now he is enrolled in classes during the afternoon hours, is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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