

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRETT D GORRE
Claimant

APPEAL NO. 12A-UI-04174-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE
Employer

OC: 02/19/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 4, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on May 7, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Jeff Higgins participated in the hearing on behalf of the employer with a witness, Samatha Peterson.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full-time for the employer as a production worker from March 23, 2011, to October 12, 2011.

After October 12, 2011, the claimant was placed on a medical leave after he broke his leg outside of work.

The employer discharged the claimant on February 6, 2012, after he had exhausted the 12 weeks of leave granted to him, but he was not yet medically cleared to return to work.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. There is no evidence that the claimant quit his employment. As the letter sent to the claimant makes clear, the employer terminated him because he had exhausted the leave granted to him but he was not yet able to work.

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 rule states that a discharge because a claimant is not able to work is not for work-connected misconduct. That is precisely what happened here. While the employer may have been justified in discharging the claimant based on its policies, work-connected misconduct as defined by the unemployment insurance law has not been established.

DECISION:

The unemployment insurance decision dated April 4, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw