

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW T WATTS
Claimant

APPEAL NO. 07A-UI-07713-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-LAND EQUIPMENT COMPANY LC
Employer

**OC: 07/15/07 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 2, 2007, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 28, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Greg O'Hara participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a mechanic for the employer from June 2005 to July 11, 2007. In December 2006, a drive motor that the claimant had installed on a skid steer loader in May 2006 fell off. In May 2007, a drive motor that the claimant had installed on a skid steer loader in October 2006 fell off. The service manager determined that the claimant had improperly installed the motors. The claimant installed the motors according to the instructions, including applying the proper torque to secure them.

Starting in February 2007, the claimant was assigned a welding project that involved welding a piece of steel on backhoes purchased by the Union Pacific Railroad. The piece of steel acts as a thumb for grasping things with the backhoe bucket. The claimant performed the welds as instructed. He had spoken to the service manager about welding using more than one pass to make a more heavy duty weld but was told that it was not necessary. He also informed the service manager that he needed a wire wheel to do a more thorough job of cleaning the paint from the parts that needed to be welded.

In June 2007, the employer received complaints that the welds were failing and the thumbs were falling off the backhoes. The employer concluded the welds were defective in that the weld did not go deep enough to bind the thumb to the backhoe. As a result of the weld failures, the employer incurred substantial repair expenses.

The employer discharged the claimant for poor work performance based on the incidents involving the drive motors and the backhoe thumbs.

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.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful misconduct has been proven in this case. The claimant performed his job to the best of his ability and followed the instructions of his supervisor.

DECISION:

The unemployment insurance decision dated August 2, 2007, 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