

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KEITH E MATTHES
PO BOX 82
WOOLSTOCK IA 50599

ELECTROLUX HOME PRODUCTS INC
FRIGIDAIRE
c/o TALX EMPLOYER SVCS
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 04A-UI-10421-DWT
OC: 08/22/04 R: 01
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Electrolux Home Products, Inc., doing business as Frigidaire (employer), appealed a representative's September 14, 2004 decision (reference 01) that concluded Keith E. Matthes (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 18, 2004. The claimant participated in the hearing. The employer responded to the hearing notice and was called. The employer's witness was not available for the hearing. Even though a message was left for the employer to contact the Appeals Section immediately, the employer did not contact the Appeals Section again. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on March 30, 1998. He worked as a full-time floater. Employees designated as a floater have been trained on all jobs in the employer's facility.

On August 18, 2004, the employer assigned the claimant to work as a floater on a job he had not done for over four years. The claimant was frustrated with this job because he had to relearn how to do the job. Employees who worked with the claimant at this job were frustrated with the claimant and the claimant knew this. The claimant heard an employee ask a trainer, R., why he didn't train the claimant right. R responded that you can't train the untrainable. The claimant heard R's response, which made him very upset. The claimant was mad at R. for making the derogatory remark about him and went up to him. The claimant pushed R. in the shoulder. A few words were then exchanged between the claimant and R., but nothing happened. After the claimant had an opportunity to calm down, he apologized to R. for what he had done and said in the heat of anger.

A female employee, who did not like the claimant, reported the incident to the employer. The employer gave the claimant a five-day suspension for this incident. On August 23, the employer discharged the claimant for pushing and fighting with a co-worker. Prior to the August 18, 2004, the claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. 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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's behavior on August 18 was not appropriate. As a result, the employer had business reasons for discharging the claimant. Since the claimant was already frustrated, the comments by an employee and R. put the claimant "over the edge," which resulted in an isolated hotheaded incident. An isolated incident of this nature, which was resolved between

the claimant and R. before another employee reported the incident to the employer, does not rise to the level of work-connected misconduct. For unemployment insurance purposes, the evidence does not establish that the claimant committed work-connected misconduct. As of August 22, 2004, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representatives' September 14, 2004 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of August 22, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjf