

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN M VAUGHN
Claimant

APPEAL NO. 10A-UI-15178-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEXTER LAUNDRY INC
Employer

OC: 03-07-10
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 28, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 15, 2010. The claimant did participate. The employer did participate through Kathy Baker, Human Resources Assistant. Employer's Exhibit One was entered and received into the record. Employer's Exhibits One through Seven was entered and received into the record. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Was the claimant discharged due to job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an inspector full time beginning April 19, 2006 through August 23, 2010 when he was discharged.

On August 19, 2010 did a first part piece inspection that was part of his normal job responsibilities. He was careless in his inspection and the part was produced backward. One hundred-five pieces were produced backward with an approximate loss to the employer of \$656.00 dollars. The claimant had been warned repeatedly about his failure to adequately inspect the parts to insure that they were being accurately made. The claimant had been suspended for one day on June 1, 2010 when he again failed to properly inspect a part. The claimant had demonstrated his ability in the past to accurately and fully perform the part inspection job duties. He was simply careless in some of his work which led to costly error for the employer. The employer followed their progressive disciplinary policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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 Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. EAB*, 531 N.W.2d 645 (Iowa App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The administrative law judge is not persuaded that the claimant was discharged because the supervisor did not like him. The claimant is alleging that as an excuse for his poor work performance. The claimant made the final error for which he was discharged.

Claimant's repeated failure to accurately perform his job duties after having been warned is evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job related misconduct. Benefits are denied.

DECISION:

The October 28, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs