

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEAL J GINTER
Claimant

APPEAL NO: 14A-UI-01972-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROGRESSIVE PROCESSING LLC
Employer

OC: 01/12/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's February 11, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the March 26 hearing. Brent Banwart, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in May 2010. He worked as a full-time employee. The employer's progressive disciplinary policy informs employees the first step in the employer's progressive disciplinary process is a verbal warning; next a written warning; then a final written warning and a disciplinary suspension; and the fourth step is termination.

On May 15, 2013, the claimant made a batch incorrectly and received a verbal warning for unsatisfactory work performance. On November 25, 2013, the claimant received a written warning for failing to blanch noodles at the correct temperature. On November 26, the claimant received his final written warning and a disciplinary suspension for making two batches of noodles instead of three that he was told to make.

On January 10, 2014, the claimant was assigned a job that he did not do very often. He was supposed to do a quality check on a product every 15 minutes. He did a check at 8:30 a.m. Products were switched at 9:27 a.m. and he did a check at 9:35 a.m. The claimant understood that when the product was at a certain level, a quality check did not have to be done. As a result of this misunderstanding, the claimant did not do a quality check at 8:45 or 9 a.m. When the employer checked the product, afterwards, there was no quality problem with the product.

As a result of missing two quality checks and because of the previous warnings he received for unsatisfactory work performance, the employer discharged the claimant on January 10, 2014, again for unacceptable work performance issues or unsatisfactory work.

The claimant established a claim for benefits during the week of January 12, 2014. As of March 26, 2014, he has not filed any weekly claims.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons. Based on the employer's progressive disciplinary policy, the employer was justified in discharging the claimant. The warnings the claimant received were for different problems. The most recent incident occurred because the claimant had a misunderstanding about how often he was to make a quality check at the end of a product run. The evidence does not establish that the claimant intentionally failed to perform his job satisfactorily. Instead, he committed several incidents of unsatisfactory work performance. These incidents do not rise to the level of work-connected misconduct. As of January 12, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's February 11, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of January 12, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs