

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LEONARD E ALEXANDER**  
Claimant

**APPEAL NO. 14A-UI-06346-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UFP TECHNOLOGIES INC**  
Employer

**OC: 05/25/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Leonard Alexander (claimant) appealed a representative's June 12, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits after his separation from employment with UFP Technologies (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 11, 2014. The claimant participated personally. The employer was represented by Scott Keith, Employer Representative, and participated by Stephanie Wiese, Human Resources Representative.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 16, 2012, as a full-time inspector/packer. The claimant signed for receipt of the employer's handbook on December 18, 2012. The employer has a no-tolerance policy regard sexual harassment. On March 17, 2014, the employer issued the claimant a written warning and suspension after an employee told the employer the claimant violated the sexual harassment policy. The claimant denied the allegations. The claimant asked to work alone because he did not want any other stories spread about things he did not say. On May 20, 2014 another female co-worker told the employer the claimant made sexually suggestive comments to her on May 17 and May 20, 2014. The claimant did not make these comments. The employer believed the female co-worker and terminated the claimant on May 20, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976). The employer had the power to present testimony or statements but chose not to do so. The employer did not provide first-hand testimony at the hearing and, therefore, did not provide sufficient eye witness evidence of job-related misconduct to rebut the claimant's denial of said conduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's June 12, 2014 decision (reference 01) is reversed. The employer has not met its proof to establish job-related misconduct. Benefits are allowed.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/css