

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEAL A MILLER
Claimant

APPEAL NO. 13A-UI-05510-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRO INC
Employer

OC: 04/07/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 26, 2013, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on June 18, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Tracy Lennon participated in the hearing on behalf of the employer with a witness, Mike Steffens. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a machine operator from July 25, 2011, to April 1, 2013. The claimant had received eight warnings from July 25, 2012, through February 26, 2013, including warnings for excessive absenteeism, carelessness, using his cellphone in unauthorized areas, and leaving work early without notice to a supervisor. In his final warning on February 26, he was warned that he was to follow his supervisor's instructions, follow all work processes, and show teamwork by cleaning, stocking, making components, and cutting up scrap promptly. He was not to have any insubordinate conduct.

On March 27, 2013, the claimant's supervisor instructed him more than once to cut up a tank. The claimant informed the supervisor he was not going to do it until he finished the parts he was working on.

On April 1, 2013, the employer discharged the claimant for insubordination and his past disciplinary history.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's failure to promptly follow his supervisor's instruction after having been warned about insubordination was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated April 26, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs