

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PERNELL D SAWYERS
Claimant

APPEAL NO. 09A-UI-16481-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 10/11/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 28, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on December 8, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Elena Reader participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from July 2009 to October 13, 2009. He was informed and understood that under the employer's work rules, falsification of a document was prohibited.

The claimant had been off work due to illness from September 25 through October 2, 2009. He received medical treatment for this on September 30, 2009. The claimant went to the clinic on October 2, 2009, and spoke to a nurse, S. Hedeman, about getting a medical excuse. Hedeman prepared a medical excuse that took the claimant off work for eight days from September 25 – October 2, 2009. The note released the claimant to return to work on October 3, 2009, which was a workday for the claimant.

The claimant called in sick on October 3, 2009. Sometime after getting the note from the nurse, he altered the note changing last day of excused absence to October 3 and date to return to work as October 5, 2009. The claimant also called in on October 6 and 7 due to his son's illness.

After the claimant turned in the medical excuse to the health services department on October 8, personnel in the health services department questioned the obviously altered dates. They inquired at the clinic on October 9 and obtained the original unaltered medical excuse and a note stating that no nurse had altered the document.

The claimant was suspended on October 9, and after the employer completed its investigation, the claimant was discharged on October 13, 2009, for falsifying the doctor's excuse.

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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The preponderance of the evidence shows the claimant altered the doctor's note. It is evident the claimant went to clinic on October 2 to get an excuse to cover the time missed through that day and a release to return to work for his scheduled workday the next day, October 3. When he called in sick on October 3, he needed that day excused as well, and needed the return to work date changed to the next day he was scheduled on October 5. The claimant's story that he noticed the dates on the note were wrong and went back and had Hedeman change the note, just does not make sense. In any event, the claimant could have contacted Hedeman and had her confirm his story.

The claimant's conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of honest 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 October 28, 2009, 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

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