

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

THOMAS D KLINE
Claimant

TPI IOWA LLC
Employer

APPEAL 15A-UI-05192-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 22, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2015. Claimant participated. Employer participated through Danielle Williams, Human Resources Coordinator.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an assistant team leader in the production department beginning on January 25, 2010 through April 1, 2015 when he was discharged.

The employer began an investigation into an incident on March 31, 2015 which included interviewing witnesses and reviewing surveillance video of the event. The claimant had been given a copy of the employer's policies and procedures that provided that any type workplace violence was not allowed. On March 31, 2015 the claimant began an altercation with a coworker Karim. The claimant approached Karim and asked him if he had taken his rolling pole. The claimant was not happy with Karim's answer and eventually began to take off his shirt while asking Karim if he was afraid. Witnesses indicated they believe that the claimant was trying to get Karim to fight him. The claimant admits that those near the incident could hear what was said. The claimant had been warned previously about how he dealt with coworkers. All of the claimant's coworkers believed that the claimant was the aggressor in the situation. The employer after interviewing employees and reviewing the video which showed the claimant preparing to fight with Karim by taking his shirt off determined that the claimant was the aggressor in the situation. Karim complained about the claimant's behavior to the employer who began the investigation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for 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.

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).

Employer has an interest and duty in protecting the safety of all of its employees. The administrative law judge is not persuaded that the claimant was only joking or that he was not the aggressor. The surveillance video in conjunction with the witnesses' statements indicates the claimant was the aggressor and that a reasonable person would believe the claimant was threatening to fight with Karim. The administrative law judge concludes that claimant made a threat of physical aggression that was in violation of specific work rules and against commonly known acceptable standards of work behavior. This behavior was contrary to the best interests of employer and the safety of its employees and is disqualifying misconduct even without prior warning for specific violence. Benefits are denied.

DECISION:

The April 22, 2015, reference 01, decision is affirmed. The claimant was discharged from employment for reasons related to job misconduct. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/mak