

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VOMASTEK R JACKSON
Claimant

APPEAL NO. 09A-UI-17970-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOLT SALES AND SERVICE INC
Employer

**Original Claim: 11/01/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Vomastek Jackson filed a timely appeal from a representative's decision dated November 23, 2009, reference 01, which denied benefits based upon his separation from Holt Sales and Service, Inc. After due notice was issued, a telephone conference hearing was scheduled for and held on December 22, 2009. The claimant participated personally. Participating as a witness was Ms. Pauline Bruce, claimant's personal friend. The employer participated by Mr. Tracy Benson, production manager. An additional called witness was Ms. Michelle Holt, office logistic employee.

ISSUE:

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Vomastek Jackson was employed as a full-time laborer for Holt Sales and Service from August 9, 2007, until November 2, 2009, when he was discharged from employment. The claimant's immediate supervisor was Ron Redford.

Mr. Jackson was discharged from Holt Sales and Service, Inc. after he went outside the chain of command on at least three occasions to request a variance from a decision that had been made by management regarding when the claimant would receive vacation pay. Mr. Jackson had not requested that he be paid any outstanding vacation pay in advance. When the claimant began vacation, he desired to have any additional vacation monies paid. It was explained that he would be paid on the normal Friday payday, which would occur on October 30, 2009. Although the decision had been made by the company's production manager, Mr. Benson, the claimant nevertheless went to an hourly office worker repeatedly in an attempt to override or overturn the decision on the timing of his vacation pay. Mr. Jackson had previously been warned on October 9, 2009, for disagreeing with and disputing management decisions. The employer reasonably believed that Mr. Jackson's most recent conduct was another illustration of his failure to accept management decisions, and the claimant was terminated from employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is.

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.

871 IAC 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.

The evidence in the record establishes that Mr. Jackson had been specifically warned regarding disputing management decisions on October 9, 2009. The claimant at that time had disputed a management directive and had been warned his conduct was not acceptable and might jeopardize his employment.

A decision was made to terminate Mr. Jackson after a company employee reported the claimant had gone to her on a minimum of three different occasions to dispute a management decision that had been made about the timing of his vacation pay and to request the employee's assistance in overturning or circumventing the decision of Mr. Benson, the production manager. Based upon the previous warning that had been recently served upon the claimant, the employer reasonably concluded that the claimant was demonstrating another instance of failing to accept management decisions and Mr. Jackson was terminated from employment.

Although sympathetic to the claimant's situation, the administrative law judge must conclude, based upon the evidence in the record, that the claimant knew or should have known that continuing to dispute management decisions was contrary to the employer's interests and

standards of behavior and could result in his termination from employment. Benefits are withheld.

DECISION:

The representative's decision dated November 23, 2009, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw