

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL D THOMPSON
Claimant

APPEAL NO. 06A-UI-09314-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT PIZZA CO
Employer

**OC: 0813/06 R: 4
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Kraft Pizza, filed an appeal from a decision dated September 7, 2006, reference 01. The decision allowed benefits to the claimant, Paul Thompson. After due notice was issued, a hearing was held by telephone conference call on October 3, 2006. The claimant participated on his own behalf. The employer participated by Assistant Human Resources Manager Tonya Jones.

ISSUE:

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

FINDINGS OF FACT:

Paul Thompson was employed by Kraft Pizza from August 24, 2005 until August 16, 2006. He was a full-time product handler. At the time he was hired the claimant received the employee handbook which sets out the policies and disciplinary procedures. Falsification of company records is an offense which is punishable by discharge for even one occurrence.

On August 9, 2006, the computerized inventory system generated a work ticket which was assigned to the claimant. He was to take identical product from two partially-full pallets and combine them into one full pallets. Instead of doing the job he found a full pallet and put the new work ticket on it rather than combine the other product onto a separation pallet as ordered. The quality control personnel discovered the problem the next day and notified supervisor Larry Graves. He did an investigation which included interviewing the claimant on August 11, 2006, in the presence of two union representatives, a human resources representative and the warehouse supervisor.

The claimant acknowledged he had taken the old ticket off the full pallet and replaced it with the ticket he had been assigned because "it was easier" for him. This was considered falsification of work documents because the employer is required to be able to account for all inventory by

the Food and Drug Administration. Failure to keep an accurate account of inventory could result in fines or even a shutdown of the employer's facility by the governing agency.

The claimant was suspended on August 11, 2006, pending further investigation by the employer. A union representative notified him on August 15, 2006, he was discharged.

Paul Thompson has received unemployment benefits since filing a claim with an effective date of August 1, 2006.

REASONING AND CONCLUSIONS OF LAW:

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant did not do the work he was assigned to do. Instead, because it was "easier," he switched work tickets on a full pallet, disrupting the inventory control system and falsifying company records. The inventory control tickets were inaccurate and he had claimed to do work he had not, in fact, performed. This exposed the employer to possible legal consequences and is conduct not in the best interests of the employer. The claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of September 7, 2006, reference 01, is reversed. Paul Thompson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$1,827.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/cs