

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY HAUENSTEIN

Claimant

APPEAL NO. 07A-UI-09759-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION

Employer

**OC: 09/23/07 R: 03
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Pella Corporation (employer) appealed an unemployment insurance decision dated October 12, 2007, reference 01, which held that Gary Hauenstein (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 5, 2007. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted and therefore, did not participate. The employer participated through Eric Johnson, Human Resources Representative; Patricia Griffiths, Facilitator; and Shelby Schneider, Department Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time operator from September 7, 1999 through September 27, 2007. He was discharged for falsification of time records, which is a terminable offense. On September 23, 2007, the claimant signed off on the time and attendance records certifying that he worked six hours of overtime on Friday, September 21, 2007. Patricia Griffiths, the facilitator, questioned the claimant a second time as to whether he worked six hours of overtime and he insisted he had. The other employees who worked overtime that day only worked four to five hours. Upon further investigation, it was confirmed the claimant had only worked four and a half hours on September 21, 2007. The claimant eventually admitted he only worked four and a half hours but claimed that he was confused and did not have enough time to think about it when questioned about the overtime.

The claimant filed a claim for unemployment insurance benefits effective September 23, 2007 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged for falsifying time records, which is a terminable offense. Falsification of time records is clearly contrary to the employer's interests as it has the result of the employer paying an individual for time not actually worked. Such conduct constitutes theft, which is contrary to the standards of behavior an employer has the right to expect. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated October 12, 2007, reference 01, is reversed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for

insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css