

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EHS KALUSAY**

Claimant

**APPEAL NO. 12A-UI-08413-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**

Employer

**OC: 06/03/12**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 9, 2012, reference 02, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on August 8, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Aung See. Aureliano Diaz 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 April 29, 2012, to May 30, 2012. The claimant had previously worked for the employer from 2009 through 2011. While he was employed, the claimant had informed his supervisor that his hand was swollen and sore.

The claimant applied for employment again in April 2012. During his pre-employment physical, he was asked by the nurse if he had any previous injuries. He said no. The claimant was assisted by an interpreter during this physical. He answered no because he did not have any injuries at that time. The claimant signed a certification that the information he had provided was true.

In late May 2012, the claimant went to the company nurse and reported that his hand was swollen and sore and that he could not work on a job using a knife. He admitted during the interview that he had similar problem when he worked for the employer previously.

The employer discharged the claimant on May 30, 2012, for falsifying information on his pre-employment physical.

**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 section 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 claimant's falsification of information about his health issues on his physical was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of 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 July 9, 2012, reference 02, 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css