

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHASE E DAVIS**  
Claimant

**APPEAL NO: 14A-UI-04396-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TENNYSON ENTERPRISES INC**  
Employer

**OC: 04/06/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's April 23, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the May 16 hearing. Allan Thompson, the area supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons that constitute work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in December 2012. He worked 35 to 38 hours a week as a delivery driver. The employer's policy informs employees they must wear the employer's approved uniform while working. A uniform includes an approved hat.

On March 31, the claimant planned to take five deliveries out at one time. The manager on duty, K.B., told the claimant he could not take five deliveries. The claimant argued with the K.B. for a while and then just took two deliveries. As he left, the claimant threw paper towels at K.B. and walked out with two deliveries.

On April 3, the claimant reported to work and did not have his hat on. K.B. told the claimant to put his hat on and he did. On April 4, the claimant worked a split shift. When the claimant reported to work the second half of his split shift, a shift leader, P., told the claimant to put on his hat before he punched in. The claimant was wearing a stocking hat. The claimant may have received permission to wear the stocking hat sometime before April 4. The claimant told P. he was going to wear the stocking hat. P. then told the claimant that before he could punch in, he had to put on the employer's approved hat. Since P. was not wearing the employer's approved hat and he had been given permission to wear a stocking cap before, the claimant did not punch in. Instead, he left and did not work.

On April 4, 2014, the employer discharged the claimant for insubordination or his refusal to follow a reasonable instruction.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known the employer required him to wear an approved hat at work. On April 3, the claimant put on the employer approved hat when K.B. asked him to put on this hat. The next day, when the claimant started the second half of his split shift, a shift manager, P., asked the claimant to put on his hat. The claimant did not want to put on the hat because P. was not wearing a hat and even though she was a shift manager, she was working as a delivery driver that day. Instead of putting on the hat, the claimant told P. he would not put on the employer's approved hat because he was going to wear a stocking cap instead. The claimant asserted the stocking cap had been approved by management before, but there is no indication who gave him permission to wear a stocking cap or when. P.'s request for the claimant to put on the employer's approved hat before he checked in was reasonable. The claimant's decision to leave work instead of putting on the hat amounts to work-connected misconduct. If the claimant had a problem with putting on the approved hat, he could have had K.B. or upper management address this issue instead of refusing to work after he was told he needed to report to work in his complete uniform. The claimant committed work-connected misconduct on April 4, 2014. As of April 6, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's April 23, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of April 6, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This

disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css