

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER W JOHNSTONE
Claimant

APPEAL NO: 10A-UI-08631-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 05/16/10
Claimant: Respondent (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's June 10, 2010 decision (reference 01) that held the claimant eligible to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. A telephone hearing was held on August 3, 2010. The claimant participated in the hearing. Jessica Sheppard, a human resource associate, appeared on the employer's behalf. 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:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 12, 2008. He worked as a full-time production employee.

In late April 2010, the claimant saw a pin working itself out on the conveyor and reported this to a supervisor. The claimant helped the supervisor put the pin back in. The claimant was surprised the employer did not replace the pin. The conveyor is in segments and a 2.5 to 3 feet pin hold segments of the conveyer together.

The day a 5 or 6 inch part of the pin broke off it caused the conveyor to stop for 45 to 60 minutes. That day the claimant was the only ham skinner at his station. Typically there are two ham skimmers. The claimant was very busy that day. He did not attempt to pull out part of a pin.

On May 14, the employer received information from A.H. that she saw the claimant pull at the broken pin at least two times the day the conveyor stopped. Before this incident occurred, the claimant made comments to employees how pulling out a pin would cause the conveyer to stop.

Although the claimant's job was not in jeopardy prior to May 14 and he denied touching the pin or pulling at it on the day in question, the employer discharged him on May 19 for destruction of the employer's property.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer's reliance on statements from employees who did not testify at the hearing cannot be given as much weight as the claimant's testimony. As a result, the claimant's version of what happened the day the conveyor stopped must be given more weight than the employer's reliance on unsupported hearsay information. The claimant's version is reflected in the findings of fact. The facts do not establish that the claimant pulled at the pin, destroyed or attempted to destroy the employer's property. The evidence does not establish that the claimant committed work-connected misconduct. As of May 16, 2019, the claimant is qualified to receive benefits.

DECISION:

The representative's June 10, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons, but did not establish that the claimant committed work-connected misconduct. As of May 16, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css