

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANNY D SANDERS**  
Claimant

**APPEAL NO. 08A-UI-03641-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**  
Employer

**OC: 03/16/08 R: 04  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated April 7, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 30, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Jamie Ruess 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 maintenance mechanic from February 1, 1971, to March 11, 2008.

On February 23, 2008, the claimant was at work with another employee, Michael Purdy. A one foot-square box containing a part for a hoist came in that day. Before leaving work that day, Purdy wrote with marker on the outside of the box, "Do Not Touch-Do Not Mess With." This was intended for the maintenance mechanic on the next shift who often got into things that were not his responsibility. As they were leaving, Purdy decided to play a joke by adding, "Explosives" to what was written on the box. The box was left in the room where the pallet jacks were repaired. The claimant witnessed what Purdy had written but went along with the joke and did not report it to anyone. He did not think anyone would take it seriously.

The second-shift mechanic found the box and reported it to management. The police and bomb squad were called in to determine if the box contained explosives. When the police called the claimant told them it was a joke and admitted he had witnessed Purdy's actions.

The claimant was suspended on February 25, 2008, and was discharged on March 11, 2008, for his involvement in the box incident.

## 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.

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.

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 substantial and 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).

No willful and substantial misconduct has been proven in this case. Clearly, the claimant made a foolish mistake in judgment by not stopping Purdy or reporting what he had done but disqualifying misconduct has not been shown.

**DECISION:**

The unemployment insurance decision dated April 7, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/css