

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DANIEL R MILLER
220 A AVE TRLR 42
KALONA IA 52247-9754

ALPLA INC
c/o JULIE UNDERWOOD
2258 HEINZ RD
IOWA CITY IA 52248

Appeal Number: 06A-UI-06083-DWT
OC: 05/14/06 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the *Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.*

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Alpla, Inc. (employer) appealed a representative's June 1, 2006 decision (reference 01) that concluded Daniel R. Miller (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 10, 2006. The claimant participated in the hearing. Kim Koomar, the human resource manager, William Campbell, the production manager, Julie Underwood and David Norris 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 September 12, 2005. The claimant worked as a full-time packaging operator. The employer hired claimant and S.P. the same day. The claimant and S.P. had no problems until S.P. became a shift leader. After the claimant returned from a vacation in April, S.P. had been made a shift leader. The claimant had no problems with S.P. getting this position, but after S.P. became the shift leader he started talking down to the claimant. The claimant felt S.P. treated the claimant like a child.

The employer never talked to the claimant about any performance problems and the claimant believed his work performance was above average. After S.P. began yelling at the claimant about something with his work, the claimant became upset because the claimant knew how to do his job. The two men engaged in a verbal confrontation and used profanity. S.P.'s significant other, M.G., worked for the employer also. While M.G. did not work in the same department, M.G. noticed the confrontation and immediately stepped in between the claimant and S.P. M.G. butted heads with the claimant. Although S.P., M.G. and another employee reported the claimant placed his hand on S.P.'s chest, the claimant denied he touched S.P. at all during the confrontation. The claimant felt M.G. physically threatened him. After the confrontation, the claimant's supervisor told the claimant and S.P. to shape up and go back to work. Later, the employer sent the claimant home.

The employer obtained statements from the claimant, S.P., M.G. and another employee. Based on these statements, the employer concluded the claimant touched or physically assaulted S.P. The employer discharged the claimant on April 18 for pushing S.P. in a hostile manner.

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 claimant's testimony is credible and must be given more weight than the employer's reliance on hearsay reports from people who did not testify at the hearing. Based on the relationship between S.P. and M.G., M.G.'s report may have been somewhat exaggerated. A preponderance of the credible evidence establishes the claimant and S.P. engaged in a verbal confrontation on April 18. The situation became more heated when M.G. became involved in the situation. The facts do not establish that the claimant physically assaulted or threatened S.P. or M.G. While it appears M.G. did not get along with the claimant, they did not work in the same department and usually did not work in the same area. The evidence does not establish that the claimant committed work-connected misconduct on April 18 by engaging in conduct that deliberately disregarded the employer's interests. Therefore, as of May 14, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's June 1, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of May 14, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/cs