

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUCAS E CARNS

Claimant

APPEAL NO. 09A-UI-14581-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLMAN DYNAMICS INC

Employer

OC: 07/12/09

Claimant: Appellant (2)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Lucas Carns, filed an appeal from a decision dated August 6, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on October 27, 2009. The claimant participated on his own behalf. The employer, Wellman Dynamics, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Lucas Carns was employed by Wellman Dynamics from June 4, 2007 until July 9, 2009 as a full-time production worker on the second shift. The person who worked in his area during the first shift began to move the work table around, leaving it in the new position after leaving for the day. Mr. Carns left the woman notes on the table asking her not to move it, but it did no good. He spoke with his lead person and the supervisor, both of whom said they would talk with the first shift person, but the problem persisted.

On July 8, 2009, the table had again been left in the wrong position and the claimant hit his knee on it, causing him pain. In frustration he took a marker and wrote on the table top, "leave the table how it's supposed to be." The next day he was discharged by the human resources representative, Chris Silvers. He was later reinstated after a grievance procedure as the writing was able to be wiped off the table and no permanent damage resulted.

REASONING AND CONCLUSIONS OF 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 claimant let his frustration and discomfort get the better of his good judgment in this case. He had not had any success in following the chain of command to have his concerns resolved about the first shift person moving the table around. When the failure to leave the table in the correct position resulted in Mr. Carns hurting himself on it, he vented his frustration by writing on the table. While this is certainly a questionable course of conduct, it was only a one-time error in judgment and did not result in any permanent damage to the company property.

In order to be disqualified from unemployment benefits for a single incidence of misconduct, the misconduct must be a deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees. *Henry v. IDJS*, 391 N.W.2d 731 (Iowa App. 1986). The administrative law judge does not consider the claimant writing on the work table to rise to the level of misconduct substantial enough to warrant a denial of unemployment benefits.

DECISION:

The representative's decision of August 6, 2009, reference 01, is reversed. Lucas Carns is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs