

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PATRICK J RAINSFORD**  
Claimant

**APPEAL NO: 06A-UI-08639-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OLYMPIC STEEL IOWA INC**  
Employer

**OC: 07/30/06 R: 04  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Olympic Steel Iowa, Inc. (employer) appealed a representative's August 18, 2006 decision (reference 01) that concluded Patrick J. Rainsford (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 September 13, 2006. The claimant participated in the hearing. Kathy Truelson, Bryan Rolf and Gary Willet 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 August 18, 2003. The claimant worked as a full-time shop helper. Willet was his supervisor.

Prior to July 26, 2006, the claimant received several warnings for safety-related issues. The employer gave the claimant a verbal warning on September 2, 2004 for improperly operating a crane. On September 2, the claimant did not realize how close he was to another crane operator. The employer gave him a warning for not being aware of his surroundings. On February 16, 2005, the claimant received a written warning for moving a coil with only one band and with the outside wrap hanging loose. On June 12, 2006, the claimant received a written warning for not operating a crane safely, which resulted in minor property damage.

The employer had problems with coils unwrapping. The employer purchases a machine that wrapped coils. The claimant understood coils were to be wrapped when the coils were delivered. When a coil that had been stored was used, employees did not have to rotate the coil again unless it was not properly rotated or wrapped. Properly wrapped coils looked as

though they were wrapped in a 7 to 9 o'clock position. The claimant understood the importance of rotating coils and even brought in tapes to assist the employer in training other employees.

On July 26, the claimant noticed a coil was wrapped and had the end tucked in the coil. The coil was wrapped in the 6 o'clock position. The claimant knew this coil was wrapped in the 6 o'clock position. The claimant looked at the coil and concluded there would not be any problem in putting it in the payoff area. After the coil had been placed on the payoff area, the coil became unwrapped and the end of the loose coil hit and damaged the fence.

The employer investigated the incident and determined the claimant failed to follow the employer's safety procedures by rotating the coil so it was wrapped correctly before he staged it on the payoff area. The employer discharged the claimant on July 27 because he had received previous warnings for violating the employer's safety procedures.

### **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).

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act. 871 IAC 24.32(8).

The employer established compelling business reasons for discharging the claimant. Since the coil was not wrapped in the 7 to 9 o'clock position, the claimant should have rotated the coil again. Even though the claimant received previous warnings for safety violations, none of his warnings establish that he intentionally violated the employer's safety rules. The facts do not establish that the claimant was negligent or careless to the extent that he committed work-connected misconduct.

On July 26, the claimant may have used poor judgment when he concluded the coil was wrapped sufficiently so it did not need to be rotated again. The evidence does not establish that the claimant intentionally and substantially failed to follow the employer's safety procedures. The claimant was as safety conscious as the employer. While the coil was not wrapped in the proper position (7 to 9 o'clock position), the facts indicate coils retrieved from storage were not

always rotated again especially when they were wrapped in the 6 o'clock position. The claimant did not commit work-connected misconduct. As of July 30, 2006, the claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's August 18, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected misconduct. As of July 30, 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw