

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD R GOLDEN
Claimant

APPEAL NO: 06A-UI-10479-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC
Employer

OC: 10/01/06 R: 04
Claimant: Respondent (2)

Section 96.5-2-a – Discharge
Section 96.3.7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Beef Products, Inc. (employer) appealed a representative's October 25, 2006 decision (reference 01) that concluded Edward R. Golden (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 November 9, 2006. The claimant participated in the hearing. Sharlene Shoeman, Jennifer Stubbs and Rick Woods 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.

ISSUES:

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

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 26, 2002. The claimant worked as a full-time quality assurance assistant. Part of the claimant's job required him to take and record hourly temperature readings on various samples. When the claimant took a temperature reading, the employer required another person to look at the temperature and verify the correct temperature had been recorded. The employer's policy informs employees that all required monitoring and verifications must take place.

On September 28, the claimant forgot to record a temperature at 4:00 p.m. After the claimant took a temperature reading at 5:04 p.m., which was verified, he realized he had not taken or at least recorded a 4:00 p.m. hourly reading. When the claimant realized he had not recorded a 4:00 p.m. hourly reading, he wrote down a temperature, indicated he had taken it at 4:59 p.m. and asked a co-worker to verify the temperature recorded for HACCP records. The employee did not see the temperature when the claimant took it at 4:59 p.m. and refused to verify the

temperature the claimant recorded for this time. To verify a temperature, an employee must personally see the temperature.

When the employer talked to the claimant about recording a temperature that had not been verified, the claimant admitted he tried to cover up the fact he had forgotten to take a 4:00 p.m. reading. After the employer talked to him, the claimant acknowledged that by trying to cover up his error, he made the situation worse. If an employee forgets to take and/or record a temperature, the employer tells employees to contact a supervisor so paperwork can be properly recorded.

The employer discharged the claimant on October 2, 2006, for falsifying the employer's HACCP records when he tried to hide the fact he had not taken a 4:00 p.m. hourly reading. The claimant established a claim for unemployment insurance benefits during the week of October 1, 2006. The claimant filed claims for the weeks ending October 21 through November 4, 2006. The claimant received his maximum weekly benefit amount of \$334.00 for each of these weeks.

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 section 96.5-2-a. 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).

When the claimant realized he had forgotten to take or record a 4:00 p.m. temperature reading, he attempted to cover up this mistake by recording a temperature he knew no one had seen him take at 4:59 p.m. The claimant then asked a co-worker to verify this temperature when he knew this temperature could not be verified. The claimant's actions on September 28, 2006, constitute an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The claimant tried to cover up his mistake instead of admitting he made a mistake. The employer discharged the claimant for reasons constituting work-connected misconduct. Therefore, as of October 1, 2006, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending October 21 through November 4, 2006. The claimant has been overpaid \$1,002.00 in benefits he received for these weeks.

DECISION:

The representative's October 25, 2006 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 1, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured

work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending October 21 through November 4, 2006. The claimant has been overpaid and must repay a total of \$1,002.00 in benefits he received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs