

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY OLIPHANT
Claimant

APPEAL NO: 09A-UI-08405-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANAGED PRODUCTION IMPROVEMENT
Employer

OC: 05/10/09
Claimant: Respondent (2)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Managed Production Improvement (employer) appealed an unemployment insurance decision dated June 10, 2009, reference 01, which held that Jeffrey Oliphant (claimant) was eligible for unemployment insurance benefits. Due notice was issued scheduling the matter for a telephone hearing to be held June 29, 2009. Since there was no separation from employment, a hearing was deemed unnecessary. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant separated from his employer.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The claimant is related to the employer herein and was discharged as a result of a family conflict. The issues were resolved and the claimant was hired back with no separation in pay or benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 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 claimant is still working for the employer and there has been no separation from employment and no interruption in wages. Consequently, benefits are denied.

DECISION:

The unemployment insurance decision dated June 10, 2009, reference 01, is reversed. There has been no separation from employment and benefits are denied.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs