

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ORVAL L SHEWRY III**  
Claimant

**APPEAL NO: 10A-UI-14228-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VERMEER MANUFACTURING  
COMPANY INC**  
Employer

**OC: 09/12/10**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Orval L. Shewry (claimant) appealed a representative's October 7, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Vermeer Manufacturing Company, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 2, 2010. The claimant participated in the hearing. Jennifer Kruse appeared on the employer's behalf and presented testimony from one other witness, Bruce Severson. 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:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on or about June 10, 1996. He worked full time, for about the last year and a half as a machine shop area manager at the employer's plant. His last day of work was September 7, 2010. The employer discharged him on that date. The stated reason for the discharge was breaching security protocols by resetting subordinates passwords so that he could enter the subordinates' verifications on performance reviews.

On August 29 the claimant was nearing the last day for submitting his subordinates' performance reviews, which then were supposed to be verified and accepted by the subordinates. There were two employees who had not yet received and acknowledged their reviews. In order to access the employee's computer accounts, he had the employees' passwords changed, which he then used to access the accounts and verify and accept the reviews. The employees had not consented to the claimant doing this. At least one of them complained to the employer's human resources representative, resulting in the inquiry. The claimant initially denied acknowledging the reviews on behalf of the employees, but when questioned on September 7, conceded that he had done so. Because of this breach, the employer discharged the claimant.

**REASONING AND CONCLUSIONS OF LAW:**

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. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's breaching of the employer's security protocols, as well as his initial denial of having acknowledged the reviews in lieu of the employees' acknowledgement, shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. White v. Employment Appeal Board, 448 N.W.2d 691 (Iowa 1989). The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's October 7, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of September 7, 2010. This disqualification continues until the claimant 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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