

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUKE DRILLING

Claimant

APPEAL NO. 07A-UI-03391-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRINCIPAL LIFE INSURANCE CO

Employer

**OC: 03/04/07 R: 02
Claimant: Appellant (2)**

Section 96.5-2- a- Discharge

STATEMENT OF THE CASE:

Luke Drilling (claimant) appealed a representative's March 22, 2007 decision (Reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Principal Life Insurance Company (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known address of record, a telephone hearing was held on April 18, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer. 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 in May 2006. The claimant worked as an in-bound customer service representative.

When the claimant started working, the employer warned him about not accessing illegal sites on the Internet at work. During his employment, the claimant accessed the Internet at various times of the day. Although the claimant was on the Internet about an hour a day, no one said anything to him or warned him that his job was in jeopardy.

On February 28, 2007, or early March 2007, the employer discharged the claimant. The employer indicated he was discharged because he was on the Internet too much at work. The claimant knew the employer was downsizing his department and two or three other people also lost their jobs. The employer has not hired anyone to replace the claimant.

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).

The employer may have had business reasons for discharging the claimant. The evidence does not, however, establish that he intentionally violated any rule or substantially disregarded the employer's interests. The claimant had no idea his job was in jeopardy or that the employer considered his Internet usage and time excessive. The employer never warned the claimant that his job was in jeopardy. The evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of March 4 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 22, 2007 decision (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of March 4, 2007, 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw