

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DARYL D HAYNES
Claimant

APPEAL NO. 06A-UI-09890-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RYKO MFG CO
Employer

**OC: 09-10-06 R: 02
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 2, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 24, 2006. The claimant did participate. The employer did participate through (representative) Claudia Mozena, Human Resources Specialist; Bill Heinkel, Lead Person in Shipping Department; Greg Irving, Lead Person in Customer and Quality Service; and Tim Flowers, Customer Quality Support Manager.

ISSUE:

Was the claimant discharged for work related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a parts shipping and receiving clerk full time beginning October 2, 1994 through September 6, 2006, when he was discharged.

On Wednesday, September 6, the claimant used the bar code system to punch himself in as he was required to do so. The claimant normally and regularly used the bar code system to punch himself in as he and all other hourly permanent and temporary workers were required to do so. The claimant normally works a ten-hour shift on Monday through Thursday. Because of Labor Day that week, the claimant and most of his other coworkers were working eight-hour shifts from Tuesday through Friday. The claimant punched into the bar code system that he was working a ten-hour day, not an eight-hour day. Bill Heinkle noted that the claimant had punched in incorrectly, as had another employee, Tim Goodlaxen. Mr. Heinkle gathered Mr. Irving, another lead person, Mr. Goodlaxen and the claimant around the bar code machine so that he could instruct the claimant and Mr. Goodlaxen on how to punch in properly when they would only be working an eight-hour shift as opposed to their normal ten-hour shift. When punching in for a less than ten-hour shift, the employer refers to that operation as a “shift over-ride.” All employees punch in using a shift over-ride when they work less than their normal shifts.

There are written instructions on how to perform the shift over-ride function by each bar code at each door in the plant. While making the explanation to Mr. Goodlaxen and the claimant, the

claimant said that the procedure was too complicated for him to learn and that he would not do it, he would just have some lead person do his shift over-ride on days when he did not work his normal ten-hour shift. Mr. Heinkle told him that having another employee do his shift over-ride was not an option and that learning how to do the shift over-ride himself was part of the claimant's job duties and responsibilities. There are approximately 200 permanent employees and up to 50 temporary employees who are required to learn the shift over-ride procedure and to use it to punch in. The claimant wanted to be allowed to use another computer program to punch in, as the lead workers were allowed to do that.

When Mr. Heinkle was talking to him about learning the shift over-ride procedure, the claimant turned and walked away from Mr. Heinkle and would not continue the discussion. Mr. Irving and Mr. Heinkle both testified consistently about what the claimant did and said when Mr. Heinkle was trying to show him how to punch in on the bar code machine while using the shift over-ride procedure. The claimant refused to continuing talking with a supervisor about a duty he was required to learn. After the incident Mr. Heinkle reported what had occurred to Tim Flowers his supervisor.

The claimant had been previously told by Mr. Flowers on June 29 that he needed to use the bar code system correctly.

The claimant was discharged when the employer determined that he had refused to perform or learn a function of his job, that is, punching into the bar code system using the shift over-ride procedure.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 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 question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985).

The claimant was being instructed on how to properly punch in and complete a shift over-ride on days when he was not going to work his normal ten-hour shift, when he walked away from his supervisor and refused to learn the procedure. The claimant had been previously warned about learning and using the bar code system properly. It would be impossible for a supervisor to punch each employee in and out on days that are affected by holidays. The claimant was being asked to perform a function that each employee was required to perform, a shift over-ride. The claimant refused to do so and thought the employer should assign another employee to do it for him. The employer has the right to allocate its personnel in accordance with its needs and available resources. The employer determined that the claimant should learn the procedure himself and he refused to do so. Under these circumstances, his actions constitute misconduct sufficient to disqualify him from receiving unemployment insurance benefits. Benefits are denied.

DECISION:

The October 2, 2006, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw