

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VOLIN K WILLIAMS
Claimant

APPEAL NO. 14A-UI-01384-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KCS MERGERCO LLC
Employer

**OC: 12/22/13
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Volin Williams, filed an appeal from a decision dated January 10, 2014, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on February 27, 2014. The claimant participated on his own behalf. The employer, KCS Mergerco LLC (KCS), participated by Human Resources Manager John Anderson, Vice President of Operations Ken Wilson, Superintendent Larry Gaskill, and Supervisor Charlie Laurie.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Volin Williams was employed by KCS from November 29, 2010 until December 24, 2013 as a full-time production worker. His main job was to analyze packages of “combo” meat for fat content. This requires him to push a core drill through the meat and analyze the fat content. He is to core drill every combo package and document the results.

On December 19, 2013, Vice President of Operations Ken Wilson received a complaint from a customer about a combo package. The documentation received with the meat did not match the results from the customer’s own analysis. Mr. Wilson tracked the package and watched the video of Mr. Williams doing the testing. The video shows the claimant testing one package with the core drill but not testing the other three boxes, but he wrote down “results” for all four packages.

The claimant was interviewed that same day and shown the videos. He was asked why he did not test the other combo boxes and did not have an answer. He was suspended pending further investigation and recalled on December 24, 2013. At that meeting he maintained he had been told to do the analysis that way by his supervisors, Larry Gaskill and Charlie Laurie. Mr. Gaskill was in the meeting and denied he had ever given Mr. Williams training, or authorization, to do anything other than the core drill on each combo box.

At the end of the meeting the claimant was discharged for falsification of company documents. This is a zero tolerance policy and employees are subject to immediate discharge.

REASONING AND CONCLUSIONS OF LAW:

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 claimant does not deny he failed to do a core drill on three out of four combo boxes. His assertion he used his hands to check the other boxes was refuted by the video footage viewed by the managers and supervisors. The supervisors have also refuted his assertion he was given permission to core only one box and write down similar results for other, untested, boxes.

The claimant was properly trained on how to test the combo boxes and record the results but willfully refused to do so. The importance of this highlighted by the fact the customer did its own analysis and complained that the results were not the same. The employer has an obligation to its customers to provide accurate analysis data of its products and the claimant's conduct interfered with its ability to do so. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified

DECISION:

The unemployment insurance decision dated January 10, 2014, reference 01, is affirmed. Volin Williams is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs