

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHILLIP JOURNEYMAN
Claimant

APPEAL NO. 10A-UI-02521-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 01/10/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Phillip Journeyman filed an appeal from a representative's decision dated February 5, 2010, reference 01, which denied benefits based on his separation from Swift & Company. After due notice was issued, a hearing was held by telephone on April 1, 2010. Mr. Journeyman participated personally. The employer participated by Cheryl Hughlette, Human Resources Manager

ISSUE:

At issue in this matter is whether Mr. Journeyman was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Journeyman was employed by Swift from January 4, 2007 until January 14, 2010 as a full-time production worker. He was discharged because he received five disciplinary actions within 12 months.

Mr. Journeyman received a written warning on June 25, 2009 because he was not keeping meat product away from the floor drains as directed. He received another written warning on July 8, 2009 for not cleaning an assigned area. He received a verbal warning on August 11, 2009 because he was not performing his job correctly. He was cutting "chits," a job he had qualified to perform but was not performing it in the manner required. Mr. Journeyman was given a final written warning on October 12, 2009. He was wearing his mesh apron incorrectly and was told he needed to cross it in the back. He became angry and threw his helmet and apron to the floor. He was sent to human resources and, on the way there, was yelling and slammed his fist into the wall.

The final event that triggered Mr. Journeyman's discharge occurred on January 14, 2010. When he entered the production floor, his supervisor told him his clothes were dirty and that he would have to change. Mr. Journeyman became angry and started yelling and swearing at the

supervisor. He was waving his work knife as he was doing so. He was discharged the same day.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Journeyman was discharged after receiving five disciplinary actions within a 12-month period. Three of the warnings were due to the failure to perform his job satisfactorily in spite of having the ability to do so. The three warnings were for not keeping the floor drain clear, not cleaning an area, and not cutting the "chits" properly.

The remaining two warnings Mr. Journeyman received were for more volatile conduct. He became angry on October 12 and threw his helmet and apron on the floor simply because he was asked to change the manner in which he was wearing his mesh apron. His reaction on January 14 was likewise disproportionate to the employer's request. He was asked to change his clothing for the production floor. Instead of changing as requested, Mr. Journeyman became angry and used profanity towards his supervisor. The fact that he was yelling and waving a knife could have been interpreted as threatening.

Given the warning he received in October, Mr. Journeyman knew or should have known that having a loud outburst in response to a reasonable directive was contrary to the employer's standards. For the reasons stated herein, it is concluded that disqualifying misconduct has been established by the evidence. As such, benefits are denied.

DECISION:

The representative's decision dated February 5, 2010, reference 01, is hereby affirmed. Mr. Journeyman was discharged for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs