

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**SUSAN C CASTLE
PO BOX 264
STANHOPE IA 50246-0264**

**CENTRO INC
950 N BEND DR
NORTH LIBERTY IA 52317**

**Appeal Number: 06A-UI-07806-HT
OC: 07/03/05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Susan Castle, filed an appeal from a decision dated July 25, 2006, reference 06. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 21, 2006. The claimant participated on her own behalf. The employer, Centro, participated by Business Process Owner John Tigrett, Executive Assistant Rhonda Griffin, and Corporate Safety Leader Lisa Rozek.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Susan Castle was employed by Centro from April 24 until June 16, 2006. She was a full-time CNC Operator. At the time of hire, she received a copy of the employer's drug policy which provides for a drug screen for any employee who files an incident report requiring medical attention.

On June 16, 2006, the claimant filed an incident report because her hands had swollen up and were cracked and oozing. She was taken to Mercy Occupational Health Clinic in Iowa City, Iowa, for examination and treatment. According to the policy she was requested to give a urine sample but refused. The nurse advised her she was required to do this under the employer's policy, but she still refused. Business Process Owner John Tigrett had accompanied her to the clinic and he also advised her of this policy and she still refused.

The claimant's main concern was that she did not want to touch the genital area because of the rash and oozing on her hands. She was returned to Centro where she met with Mr. Tigrett and Corporate Safety Leader Liza Rozek. The employer talked with the clinic and it was agreed Ms. Castle would be provided with shoulder gloves, protection for her hands which would extend all the way to her shoulder so that no part of the rash would touch her body, and she would be given another opportunity to give the sample. She again refused even though the employer told her several times that refusal was grounds for discharge. Ms. Castle left the employer's facility and was discharged.

REASONING AND CONCLUSIONS OF LAW:

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

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 had been advised her job was in jeopardy as a result of her refusal to submit to the drug screening under the company policy. The administrative law judge can certainly understand her reluctance to take the chance of spreading the rash to other parts of her body. But, the employer made a good-faith effort to provide her with adequate protection to avoid this possibility and give her another chance to take the test. Her refusal constitutes not only insubordination, but a violation of a known company rule. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 25, 2006, reference 06, is affirmed. Susan Castle is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/kjw