

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN T ANDERSON
Claimant

APPEAL NO: 13A-UI-13187-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEAVER ENTERPRISES LTD
Employer

OC: 10/27/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 18, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the December 18, 2013 hearing. Joe Rechtfertig, the area supervisor, and Terry Moffit, the director of operations, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2012. The claimant worked full time as the general manager at one of the employer's restaurants. The employer's written policy informs employees that no one is allowed to take food from the restaurant unless employees pay for the food. The employer does not allow "wasted" food to be taken home by any employee. The employer skins and debones "extra" chicken to use in other menu items. The employer does not throw away any extra cooked chicken.

On October 28 another manager was looking at surveillance video after an employee reported someone had taken her coat. This employee saw employees taking buckets of chicken home at the end of the day. None of the employees who took home the chicken paid for the food. Rechtfertig looked at the surveillance video on October 29. The video confirmed that employees took home food at the end of the day on October 28 without paying for it. The claimant was the manager on duty during this shift.

On October 29, when the employer talked to the claimant, he admitted he gave employees permission to take the extra or "wasted food" home. The food that was taken home on October 28 consisted of buckets of chicken enough to feed several people. Employees reported the claimant allowed employees to take home extra chicken for the last one to two months.

Since the claimant, a manager, allowed employees to take home an excessive amount of food over a period of time, on October 29 the employer discharged the claimant for violating the employer's policy about requiring employees pay for any food taken from the restaurant.

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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

As a manager, the claimant is held to a higher standard of enforcing the employer's policies. By giving employees permission to take home extra or unused food, chicken, the employer would have used for other products, the claimant substantially disregarded the employer's interests and disregarded the standard of behavior the employer had a right to expect from a general manager. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of October 27, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 18, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 27, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs