

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JARED A FARRIS
Claimant

APPEAL NO: 11A-UI-10675-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR SERVICES INC
Employer

OC: 07/17/11

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Jared A. Farris (claimant) appealed a representative's August 10, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Family Dollar Services, Inc. (employer). After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on September 7, 2011. The claimant participated in the hearing. Leah Douglas appeared on the employer's behalf and presented testimony from one other witness, Randy Fens. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on August 10, 2009. He worked full time as a bulk order filler at the employer's Maquoketa, Iowa distribution center. His last day of work was July 19, 2011. The employer discharged him on that date. The stated reason for the discharge was refusing to work as directed.

On Tuesday, July 19, the employer was short-handed in the shipping area. The claimant had assisted in shipping on some other occasions, and on that day the claimant was approached by several managers directing him to report to shipping to assist. The claimant refused, even after being advised that failure to do so could result in disciplinary action or discharge. The claimant's reasons for refusal were that he did not like the work in shipping, that he understood that he could end up assisting in shipping through the rest of the week, and that since he was not thoroughly trained in shipping, he could not work there fast enough in order to qualify for the same incentive pay benefits he could get in his regular position. When the claimant continued to refuse, he was discharged.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

Refusal to perform a task as directed constitutes misconduct unless the failure is in good faith or due to good cause. Woods v. IDJS, 327 N.W.2d 768 (Iowa App. 1982). The reasonableness of the employer's request and the employee's reason for noncompliance must both be evaluated. Endicott v. IDJS, 367 N.W.2d 300 (Iowa App. 1985). Under the circumstances of this case, in light of the employer's need and the lesser negative impact on the claimant, the claimant's refusal to working in shipping as directed shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's August 10, 2011 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving

unemployment insurance benefits as of July 19, 2011. This disqualification continues until the claimant 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs