

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FRANKLIN LEWIS JR**  
Claimant

**APPEAL NO. 09A-UI-04642-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEEF PRODUCTS INC**  
Employer

**Original Claim: 02/22/09  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated March 17, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on April 21, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, E.J. Gallagher III. Rick Wood participated in the hearing on behalf of the employer with a witness, Jennifer Stubbs. Exhibits One through Six were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as a production supervisor for the employer from May 22, 1995, to February 19, 2009. The claimant was informed and understood that under the employer's work rules, he could be discharged for willful, serious, or repeated violations of the employer's safety rules. The claimant had received warnings for safety violations in 1996 (three warnings), 1997 (two warnings), 1998, 2000, and 2004. He had received a warning on January 17, 2009, for signing off on a checkout form on December 30, 2008, that a railcar ramp was up and checked when it was not.

On February 19, 2009, an outside contractor working to repair a pallet jack asked the claimant to use a forklift to lift the pallet to remove a pin. The claimant did so making sure the pallet jack was stable and would not fall. He had witnessed mechanics doing this in the past and did not know it was prohibited.

He was discharged for this incident on February 22, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No current act of willful and substantial misconduct has been proven in this case.

**DECISION:**

The unemployment insurance decision dated March 17, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw