

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFERY R WILLIAMS

Claimant

APPEAL NO: 13A-UI-13292-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPANY ONE FIRE SUPPRESSION INC

Employer

OC: 11/03/13

Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 25, 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 19 hearing. Ted James, the president, Kerry James, the administrator, and David Brkljack appeared on the employer's behalf. During the hearing, Employer Exhibit One and Claimant Exhibit A were offered and admitted as evidence. 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 October 2006. He worked as a full-time sales tech service manager.

During an October 31 company meeting, the Bettendorf shop manager reported that he was missing items from his desk drawer. These items were office supplies such as a ruler, scissors, binder clips, pens and power strips. The shop manager also gave the employer a list of other missing items from the shop. Kerry James started reviewing surveillance tapes and discovered on October 7, 8, 14 and 15, the claimant removed office supplies and office equipment from the Bettendorf shop. The employer observed the claimant boxing up some items and removing them from the shop when no one was present. Employer Exhibit One, a video clip, revealed the claimant removing door chimes and also a hanging file wall rack from the employer's shop. Based on the employer's surveillance video, the employer estimated the claimant removed over \$2000 of office supplies and office equipment from the shop. While the claimant may need some office supplies to do his work, the amount of supplies the employer saw the claimant taking was excessive and was not necessary to do his job. The employer expects employees to give the employer a purchase order for needed supplies. The employer contacted local law enforcement officials to pursue criminal charges against the claimant.

On November 5, 2013, the employer discharged the claimant for theft of the employer's property.

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).

Although the claimant testified that he removed the door chimes from the shop because they were not working and took them to a repair shop, the door chimes have not been returned to the employer. Employer Exhibit One shows the claimant removing a hanging file wall rack. While the claimant may legitimately use pens, scissors and binder clips, he gave no explanation for removing the hanging file wall rack from the employer's shop. If the claimant needed a hanging file wall rack, it would have made more sense for him to have asked the employer to order him one instead of taking it from the shop. Even though the employer did not provide a clip of all the items the claimant removed from the shop, the evidence indicates the claimant removed office supplies and office equipment from the employer's shop that he did need to complete his job duties. The claimant took the employer's property. His actions amount to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons constituting work intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons constituting work-connected misconduct. As of November 3, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 25, 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 November 3, 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