IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

DAMON M HUNTER
Claimant

APPEAL NO. 11A-UI-04320-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRYSTAL PROPERTIES INC
Employer

OC: 02/20/11
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 29, 2011, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A hearing was held on June 7, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Joseph Powell, attorney at law. Doug Fulton, attorney at law, participated in the hearing on behalf of the employer with witnesses, Chaley Schultz, Craig Miller, and Inde Miller. Exhibits A through D and One through Four were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a maintenance worker for the employer from April 2, 2010, to February 22, 2011. One of the maintenance worker's duties is to check and log the temperatures from the faucets in the facility. Temperatures of over 120 degrees Fahrenheit are considered over the allowable temperature.

On February 18, the claimant was given the assignment of taking temperatures in a building. He recorded temperatures of 121.5, 122, and 99 degrees for three faucets on the logs with all the other temperatures recorded within the normal range. The claimant neglected to notify a supervisor about the abnormal temperatures or adjust the temperatures himself. Later that day, the maintenance supervisor noticed the two high temperatures, but when he rechecked the faucets, they were all within normal range.

On February 22, 2011, the employer discharged the claimant for negligence for failing to notify a supervisor of the abnormal temperatures. The claimant had never been counseled or warned about any similar conduct in the past.

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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof.

The employer admitted that the claimant was discharged solely for his negligence on February 18. No willful and substantial misconduct has been proven in this case. The negligence for which the claimant was discharged was not negligence of such a degree of recurrent to amount to willful misconduct in culpability. *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731 (Iowa App. 1986) (a single act of negligence is insufficient to demonstrate "repeated negligence of such a degree of recurrence" that it equals willful misconduct in culpability).

DECISION:

The unemployment insurance decision dated March 29, 2011, reference 01, is affirmed. 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/pjs