

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAVIS J EDDIE
Claimant

APPEAL NO. 12A-UI-00417-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CON-WAY FREIGHT INC
Employer

OC: 12/09/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 8, 2013, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 12, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Maureen Mahr participated in the hearing on behalf of the employer. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time for the employer as a dock worker from October 13, 2011, to December 6, 2012. He knew that he was not entitled to a break when working a five-hour shift.

On December 6, 2012, the claimant was working a five-hour shift that started at 4 p.m. At about 5:53 p.m., the claimant decided to take a bathroom break. When he got to the break room, he decided to get a sandwich. He chose a sandwich from the vending machine and put in the microwave. After going to the bathroom, he got the sandwich out of the microwave and returned to work at about 6 p.m. The service center manager, James Fox, observed the claimant, and later brought him in to talk about his taking an authorized break. Fox took a statement from the claimant where the claimant explained that he was going to the bathroom and picked up a sandwich. Fox then suspended the claimant pending an investigation into his conduct.

As the claimant left work, he announced that what happened was “bullshit” and a “crock of shit” and slammed doors open and closed in anger. He spun his tires as he left the parking lot.

After reviewing the claimant’s actions on December 6, the employer discharged the claimant on December 6 for taking an unauthorized break and unprofessional and disruptive behavior.

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 claimant's conduct in taking an unauthorized break and his unprofessional conduct when he left work was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated January 8, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs