

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD M LENOX**  
Claimant

**APPEAL NO. 09A-UI-19492-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VON HOFFMAN CORPORATION**  
Employer

**OC: 11/29/09**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Todd Lenox, filed an appeal from a decision dated December 17, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 8, 2009. The claimant participated on his own behalf. The employer, Von Hoffman Corporation, participated by Human Resources Julie Link and Manufacturing Supervisor Randy Applegate.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Todd Lenox was employed by Von Hoffman Corporation from May 1, 1989 until November 30, 2009 as a full-time bookbinder one. The claimant received the employer's rules and policies which included the safety regulations. All accidents and injuries were to be immediately reported to the supervisor.

The company produces test booklets for schools and colleges. Mr. Lenox had been warned about violating the safety regulations on January 19, 2009, when he failed to report an accident. On March 20, 2009, Manufacturing Supervisor Randy Applegate counseled him again about his unsafe work practices because he had had seven incidents since December 2008. He was told he must report every injury, including "cuts and scrapes."

On November 25, 2009, another employee came to Mr. Applegate and reported there was blood on some of the test booklets. The supervisor found blood drops as well as smears on 50 "book blocks," three of which had already been shrink-wrapped and ready to ship. He obtained the appropriate personal protection equipment for the staff and the contaminated product was destroyed.

Mr. Applegate ascertained Mr. Lenox was the person doing the cutting and confronted him. The claimant admitted he had cut himself, had not reported it, but thought he had removed all the

product with his blood on it from the production line. The supervisor found blood contaminated product concealed behind the machine. There was also blood on the cutting machine itself which had to be decontaminated.

This occurred during the third shift which ended at 8:00 a.m. on Wednesday, November 25, 2009, the day before Thanksgiving. Mr. Applegate reported the incident to Human Resources Manager Julie Link and Manufacturing Manager Adam Mizer before going home that day. They reviewed the situation and the claimant's disciplinary history and determined he should be discharged. He was not discharged until November 30, 2009, because the business was closed for the Thanksgiving holiday until November 30, 2009.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such 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. On the other hand 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.

The claimant had been advised his job was in jeopardy as a result of his failure to report accidents to his supervisor as required. He acknowledged he was aware he was to report even "cuts and scrapes." He did not do so on this occasion because he was afraid he might be fired for having too many accidents and so he attempted to conceal it by removing the blood-spattered material and concealing it behind the machine.

The fact he did not successfully remove all the contaminated material meant he exposed his co-workers to the potential of blood borne pathogens, as well as the employees in the schools

where this material was being shipped, and the children who would receive the test. In addition, his concealment of the situation exposed the employer to legal liabilities from employees and consumers. He violated company policy, refused to obey a reasonable order from his supervisor and concealed evidence wrongdoing. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of December 17, 2009, reference 01, is affirmed. Todd Lenox is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css