

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH L DAVIS
Claimant

APPEAL NO. 12A-UI-08763-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRISTAR MEAT & POULTRY LLC
Employer

OC: 06/17/12
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 12, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on August 15, 2012. Claimant participated. Employer participated through Payroll/Human Resources Assistant Laura Roney and Quality Assurance Lab Worker Jennifer Cable.

ISSUE:

Did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a quality assurance lab worker (after she requested a transfer from the production floor a month and eight days earlier) and was separated from employment on June 21, 2012. Cable observed that claimant had a vitamin drink with her and deliberately spit on the production floor on that date after she told Cable she was trying to get fired or get reassigned to the production floor, since she was upset about her pay raise, which would not adjust until 90 days after the transfer. Good manufacturing practices and procedures, and the employer's policy, prohibits this conduct. Because of the nature of her job, she was charged with watching for and enforcing these issues that would not be good for the wholesomeness of the product. Davis saw others with beverages or gum on the floor but did not report them to human resources or her immediate supervisor, Mike Myer. Roney was not aware of any such violations.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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 employer has presented substantial and credible evidence that claimant violated reasonable sanitary production floor rules by being in possession of a beverage and spitting on the floor. Workers in the human food production and processing industry reasonably have a higher standard of care required in the performance of their job duties to ensure public safety and health; certainly, the claimant, as a quality assurance worker who was charged with enforcement of the policies employee, knew this. Thus, the conduct is considered deliberate violation of the standards of behavior the employer had a right to expect of employees. Benefits are denied.

DECISION:

The July 12, 2012 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw