



A DEPARTMENT DEPUTY'S INITIAL DETERMINATION HELD: that in week 50 of 1978, the employe was discharged for misconduct connected with his employment and denied benefits.

Based on the applicable records and evidence in this case, the appeal tribunal makes the following

#### FINDINGS OF FACT and CONCLUSIONS OF LAW

The employe worked for about five months as an investigative reporter for the employer, a newspaper. His last day of work was December 14, 1978 (week 50), when he was discharged.

In denying benefit eligibility, the employer alleged that the employe consumed alcoholic beverages during work hours in violation of the employer's policies on December 13, 1978 (week 50), that he failed to keep a business related appointment during the time he was consuming alcoholic beverages, and that he became abusive and used obscene language when approached by the employer's day editor regarding the December 13 events.

However, the employe had started work at 9 a.m. on December 13 and had finished his scheduled work duties when he went to a professional club and consumed alcoholic beverages after 5 p.m. on this day. He had put in overtime hours previously in this week and was permitted under his work arrangement to take off of work when he did on December 13. He forgot to meet an individual, who was also employed by the employer, regarding a matter which he had agreed to discuss with the co-worker as a personal favor on his own time. He called this co-worker at 6:45 p.m., when he remembered that he had set up an appointment at 6 p.m. The co-worker said that the co-worker would prefer to meet with him the following morning after he had offered to immediately meet with the co-worker. The employe met with the co-worker on his own time the following morning prior to his normal starting time and was approached by the employer's day editor in regards to consuming alcoholic beverages on the previous day. He was not insubordinate and did not use any obscene language towards the day editor.

The burden of establishing that an employe was discharged for misconduct connected with employment is on the employer. The employer failed to appear at the hearing scheduled for its testimony in Milwaukee on May 25, 1979, and no evidence was adduced to establish any conduct on the part of the employe that evinced a wilful and substantial disregard of the employer's interests.

The appeal tribunal therefore finds that the employe was discharged in week 50 of 1978, but not for misconduct connected with his employment, within the meaning of section 108.04(5) of the statutes.

#### DECISION

A department deputy's initial determination is reversed. Accordingly, benefits are allowed, if the employe is otherwise qualified.

APPEAL TRIBUNAL

*Daniel O. Walter*