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R01-12752-0000
UI INTRASTATE

STATE OF OHIO
UNEMPLOYMENT COMPENSATION
REVIEW COMMISSION
145 SOUTH FRONT STREET P.O. BOX 182299
COLUMBUS, OHIO 43218-2299

DECISION

In re claim of:

APPELLANT

Claimant kqyxmntative:

BENJAMIN D HOW ATTY
SOUTHEASTERN OHIO LEGAL SERVXCES
11 E 2NLY ST
CHILLICOTHE, OH r1.5601

social Security No. [REDACTED]
L-0. 660-0

Employer:

MILLS PRIDE LTD
423 HOPEWBLL RD
WAVBRLY, OH 45690

UC0 No. -1074801000-

CASE dISTORY

On July 17, 2001, the claimant filed an Application for Determination of Benefit Rights. The application was allowed with a benefit year beginning July 15, 2001. The claimant filed a first claim for the week ending July 21, 2001,

A Determination of Benefits, issued August 8, 2001, held that the claimant was discharged by Mills Pride, LTD. for just cause in connection with work. The claimant's benefit rights were suspended until the claimant works in six weeks of covered employment and earns at least \$1,014.00. The claim for the week ending July 21, 2001, was disallowed.

On August 25, 2001, the claimant filed an appeal from the Determination of Benefits. A Director's Redetermination, issued September 7, 2001, affirmed the determination.

On September 17, 2001, the claimant appealed the Director's Redetermination. On September 19, 2001, the Ohio Department of Job and Family Services transferred jurisdiction to the Unemployment Compensation Review Commission.

On November 26, 2001, a hearing was held in Waverly, Ohio, before Hearing Officer John M. Scull. The claimant appeared in person and was represented by Benjamin D. Borne, Attorney at Law. Mills Pride, LTD. was represented by Chris Nourse, Employee Relations Representative.



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FINDINGS OF FACT

Prior to filing the claim for the week ending July 21, 2001, the claimant was last employed by Mills Pride, LTD. from April 6, 1998 through July 13, 2001. The claimant worked as a marker. The claimant's job involved marking wood to be cut for the production of wood cabinets. The claimant worked in Department 55, a department consisting of approximately thirty employees.

The claimant was absent from work from July 10 through July 12, 2001. He reported for work at his usual time on July 13, 2001. He was scheduled to work a shift beginning at 7:00 a.m. After clocking in at 6:45 a.m. the claimant walked to a break room. The claimant observed a relatively few number of employees in the break room. One of the employees who worked in the claimant's department advised the claimant that his department wasn't, "running the shift today." The claimant understood the statement to mean that the department was not operating production during the shift. The employee with whom the claimant spoke had been assigned cleaning duties.

The claimant did not attempt to verify whether he was one of the employees assigned work. He immediately left work after being advised that shift was not running production. He clocked out at approximately 7 :00 a.m. and returned home.

The claimant was one of approximately ten employees assigned to perform cleaning and maintenance duties during the production shutdown. The claimant was unaware he was assigned maintenance duties when he left the plant. Although a list of such employees is posted, the claimant failed to consult this information, or make inquiry of any supervisory employee before departing on July 13, 2001.

Upon reporting for work the following workday the claimant discovered he was scheduled to work on July 13, 2001. The claimant was discharged from employment pursuant to a work rule that provides that job abandonment or leaving the job without notification by walking off the job will be considered grounds for immediate discharge.

ISSUE

Was claimant discharged from Mills pride, LTD. without just cause in connection with work?

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**LAW**

An individual is not disqualified for benefits if the individual was discharged without just cause in connection with work. Section 4141.29 (D) (2) (a)
O.R.C.

REASONING

The employer has characterized the claimant's actions as either job abandonment or walking off the job, both of which are considered serious violations subjecting an employee to immediate discharge. In the present case the evidence does not establish the claimant intended to walk off the job or 'abandon his employment with Mills Pride, 'LTD.

While the claimant may certainly be criticized for acting imprudently by failing to ascertain if he was scheduled to work, it does not appear the claimant's intent was malevolent. This fact mitigates the claimant's conduct. It appears the claimant's absence from work was caused by his confusion concerning his work schedule, coupled with his negligence in failing to ascertain that he was not scheduled to work in the absence of production.

While repeated conduct of this nature would justify the claimant's discharge, a single incident of confusion concerning one's work schedule is not an act of misconduct or negligence justifying the claimant's discharge. The Director's Redetermination, mailed September 7, 2001, shall be reversed in accordance with these findings.

DECISION

The Director's Redetermination, issued September 7, 2001, is reversed.

The claimant was discharged by Mills Pride, LTD. without just cause in connection with work. The suspension of benefits is removed. The claim for the week ending July 21, 2001, is allowed.



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The Ohio Department of Job and Family Services will adjust charges to the account of Mills Pride LTD in accordance with this decision.

JMs/blb

John M. Scull, Hearing Officer

APPEAL RIGHTS

This decision is mailed on December 19, 2001.

A Request for Review before the U.C. Review Commission may be filed by any interested party within twenty-one calendar days after this decision is mailed. Said twenty-one day period is calculated to end on January 9, 2002.

The Request for Review must be in writing and signed by the appealing party or an authorized representative. The request should set forth the reasons why the appellant disagrees with the Hearing Officer's decision. You may file your request in person at any Ohio Department of Job and Family Services office, mail your request to the U.C. Review Commission, 145 South Front Street, P-0. Box 182299, Columbus, Ohio 43218-2299, or fax your request to (614) 752-8862.

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