

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DENNIS J WILEY
1819 EDWARDS
BURLINGTON IA 52601

AMERICAN ORDNANCE LLC
17575 STATE HWY 79
MIDDLETON IA 52638

Appeal Number: 04A-UI-03998-DWT
OC 03/21/04 R 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Dennis J. Wiley (claimant) appealed a representative's April 7, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of American Ordnance LLC (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2004. The claimant participated in the hearing. Chuck Griffin and Dan Pinkerton appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on June 15, 1999. Prior to his separation, the claimant worked as a full-time security guard. As a condition of employment, the claimant knew the employer required security guards to possess a valid driver's license.

The claimant recently bid and was transferred to work in the guard shack. Although his recent bid was successful, he could lose the guard shack job when the job bidding process occurs again, or after six months to an employee who has more seniority. Even though working in the guard shack does not require a guard to do any driving, all security employees may be asked to work other shifts, which requires an employee to drive over 100 miles of the employer's property to make sure it is secure.

The claimant was arrested for operating a vehicle while intoxicated. As a result of the arrest, he lost his driver's license for a year. The claimant tried to obtain a work permit, but was denied. The claimant learned he was not eligible to obtain a work permit. After the employer learned the claimant did not possess a valid driver's license and was unable to obtain a license for a year, the employer discharged the claimant. On March 22, 2004, the employer discharged him because he failed to meet one of the requirements of his job – possession of a valid driver's license.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known a requirement of his job meant he had to possess a valid driver's license. As a result of the claimant's decision to drive after he had been drinking, he was arrested and lost his driver's license for a year. The claimant's actions amount to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from an employee. The claimant's conduct resulted in the loss of his driver's license and his inability to obtain a work permit. The employer discharged him for reasons amounting to work-connected misconduct. As of March 21, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 7, 2004 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of March 21, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/b