

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMIAH L ROENFELD
Claimant

APPEAL NO. 08A-UI-10430-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA DEPARTMENT OF HUMAN
SERVICES/GLENWOOD**
Employer

**OC: 09/14/08 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Jeremiah Roenfeld (claimant) appealed a representative's October 31, 2008 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with Iowa Department of Human Services/Glenwood (employer) for failure to follow instructions in the performance of your job. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 20, 2008. The claimant participated personally. The employer was represented David Williams, Assistant Manager of Appellate Services, and participated by Pam Stipe, Public Service Supervisor 3; and Max Cupp Director of Environmental Services; and Susan Hallock, Director of Administrative Services.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 13, 2004, as a full-time maintenance worker. The claimant understood at the time of hire that any citations or convictions he received on non-work time would result in a record evaluation check. When the department conducted that check it would determine whether the claimant would be eligible to continue working at the facility. The claimant signed that he understood this section of the Iowa Code on February 13, 2004. The claimant had three record check evaluations. On May 29, 2008, after a record check evaluation the employer warned him that he must not receive any further citations.

On June 24, 2008, the employer placed the claimant on paid suspension pending another record check evaluation after the claimant was cited for public intoxication on June 21, 2008. The evaluation was completed and received by the employer on July 16, 2008. The evaluation listed a deferred judgment for driving while intoxicated, a disorderly conduct and two public intoxication citations. The employer determined that the claimant could not be employed based

on the restrictions placed on it in the Iowa Code. The claimant was terminated on July 16, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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 employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's October 31, 2008 decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs