

**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**

**DARRELL M PETERSON
717 W 4TH ST
BOONE IA 50036**

**CONTRACT TRANSPORT INC
PO BOX 1575
DES MOINES IA 50306**

**Appeal Number: 06A-UI-07672-CT
OC: 07/02/06 R: 02
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 is 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 for Misconduct

STATEMENT OF THE CASE:

Darrell Peterson filed an appeal from a representative's decision dated July 26, 2006, reference 01, which denied benefits based on his separation from Contract Transport, Inc. After due notice was issued, a hearing was held by telephone on August 24, 2006. Mr. Peterson participated personally. The employer participated by James Nible, Vice President. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Peterson was employed by Contract Transport,

Inc. from July 1, 2005 until June 30, 2006 as a full-time postal driver. On June 30, the employer was notified that Mr. Peterson had been banned from the post office. He was banned because of a verbal altercation with a postal supervisor on June 29. The supervisor approached him because it was felt he made a habit of spending excessive time in the restroom before unloading his vehicle. When he accused the supervisor of harassing him, she indicated she only wanted him to unload the truck in a timely fashion. Mr. Peterson told her to "shut up" as she was not in charge. The supervisor told him she was in charge, at which point Mr. Peterson pointed his finger at her and told her she was "done." Other postal employees who witnessed the exchange indicated he was yelling at the supervisor. The supervisor indicated this was not the first confrontation with Mr. Peterson.

The incident was reported to the employer and the employer was advised that Mr. Peterson was banned from the postal premises. The badge he needed to work at the post office was revoked. The employer notified him that he could not return but offered to find out what it would take to get his badge reissued so that he could again work for the postal service. Mr. Peterson was also offered the opportunity to haul freight for the employer but he declined. The employer intended to try to get Mr. Peterson re-instated so he could deliver to the post office. However, it was reported that he had made a threatening call to the postal service. He made threatening calls to the employer's dispatcher. As a result, the employer decided not to pursue having him reinstated to work at the post office.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Peterson was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Peterson was discharged because the badge he needed to perform his job was revoked. Where an individual's own conduct renders him unemployable by his employer, he is guilty of misconduct within the meaning of the law. See Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980). Mr. Peterson could not continue to deliver mail to the post office because of the verbal altercation with the postal supervisor. The employer had the right to expect its employees to treat customers with civility. Mr. Peterson breached that duty when he was rude and insulting to the postal supervisor. The supervisor's request that he unload the mail in a more timely fashion was reasonable. Mr. Peterson's response to the request was totally unreasonable. If he felt he was being abused or harassed by the supervisor, he could have called his employer from the cell phone he had with him. It was inappropriate to engage the postal supervisor in an argument. The administrative law judge concludes that Mr. Peterson was banned from the postal service for misconduct.

Inasmuch as it was Mr. Peterson's own conduct which made him unable to continue delivering mail for his employer, he is guilty of misconduct within the meaning of the law. Accordingly, benefits are denied.

DECISION:

The representative's decision dated July 26, 2006, reference 01, is hereby affirmed. Mr. Peterson was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/pjs