

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS N KING
Claimant

APPEAL NO. 12A-UI-06873-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OPTIMAE LIFESERVICES INC
Employer

**OC: 05/13/
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 4, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 5, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Idah Newquist participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a community support staff person from July 10, 2010, to May 23, 2012. The claimant was informed and understood that he was required to have a valid driver's license because driving was part of his job.

The employer discharged the claimant on May 23, 2012, because the claimant informed the employer that he was barred from driving for three years due to driving offenses. The claimant had previously been suspended from driving for 30 days in November 2011. This had been accommodated but the claimant was warned that any additional issues with his driver's license would result in termination. Although the claimant could have been approved for a work permit, the employer did not approve this because of the prior warning it had given the claimant.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such

degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The Iowa Supreme Court in Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980), ruled that a delivery driver who lost his insurability due to repeated traffic violations and was discharged for this reason was discharged for work-connected misconduct under the unemployment insurance law. This reasoning applies in this case as well. The claimant knew a valid license was a condition of his employment. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated June 4, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css