

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

TRAVIS L GONNERMAN  
4200 SW 10<sup>TH</sup>  
DES MOINES IA 50315

ALL STATE GUTTER INC  
PO BOX 118  
WAUKEE IA 50263

Appeal Number: 04A-UI-06809-SW  
OC: 04/18/04 R: 01  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 6, 2004, reference 02, that concluded he was discharged for work-connected misconduct. A hearing was held on September 1, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Rick Ross participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a gutter installer from March 11, 1999 to April 9, 2004. The claimant was informed and understood that under the employer's work rules, he was required to have a valid driver's license to remain employed with the employer.

The claimant was arrested and jailed for driving without a valid driver's license on March 8, 2004. The driver's license was revoked because the claimant was convicted of possession of

marijuana in his vehicle. The claimant had been driving company vehicles without a valid driver's license for several months. After he released from jail on March 18, the claimant spoke with the owner of the business, Rick Ross. He admitted that he did not have a valid driver's license. He asked Ross if it would be possible to hire a friend, Nathan Smith, to work with him and drive for him. Ross agreed to allow the claimant to continue to work temporarily until it was determined as to when he would have his driver's license again. The claimant worked for a couple of weeks. At that point, the employer's insurance company informed Ross that it could not cover Smith because of his driving license and Ross discovered the claimant would not be able to drive until January 2005. On April 9, 2004, Ross informed the claimant that he was discharged because he did not have a valid driver's license.

#### 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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant's violation of a known work rule requiring him to have a valid driver's license was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated June 6, 2004, reference 02, 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.

saw/b