

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREG T GLASS

Claimant

APPEAL NO. 09A-UI-14869-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY SERVICES

Employer

OC: 09/06/09

Claimant: Respondent (2-R)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Per Mar Security Services (Per Mar) filed an appeal from a representative's decision dated September 25, 2009, reference 01, which held that no disqualification would be imposed regarding Greg Glass' separation from employment. After due notice was issued, a hearing was held by telephone on November 3, 2009. Mr. Glass participated personally. The employer participated by Todd Parman, General Manager. Exhibits One through Eight were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Glass was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Glass was employed by Per Mar from January 19 until September 8, 2009 as a full-time general manager. One of his job responsibilities was to conduct monthly in-person meetings with customers. He was to submit a report at the end of each month indicating which customers he had visited with during the month. He was provided information as to who the designated contact person was for each customer. Bart Bigelow, the operations manager working under Mr. Glass, was responsible for conducting meetings with 9 of the 35 customers assigned to Mr. Glass.

Mr. Glass conducted in-person meetings with 49 percent of his customers in January and 80 percent of his customers in February. His monthly reports for March, April, May, June, and July indicated he had in-person meetings with 100 percent of his customers. Todd Parman questioned the accuracy of the reports and, therefore, contacted the customers after receiving the July report on or about July 31. Of the 35 customers, 12 indicated they had not been visited during the month of July. When the August report was received, the employer again contacted customers and found that 8 had not been contacted. When the employer spoke with Mr. Glass on September 8, he acknowledged that his reports were not accurate and that he held himself

responsible for the discrepancies. He was discharged the same day. The above matter was the sole reason for the discharge.

Mr. Glass filed a claim for job insurance benefits effective September 6, 2009. He has received a total of \$2,618.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

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. Glass was discharged for falsifying company documents. He indicated he had made in-person contacts when he had not, in fact, done so. Without accurate information concerning in-person visits, the employer could not keep track of whether it was satisfying its internal requirement to maintain period contact with customers.

Mr. Glass was aware of the employer's requirements. The administrative law judge does not believe he was ever told that phone contacts could be substituted for in-person contacts. The fact that he only contacted 80 percent of his customers in February suggests he knew the contacts were to be in-person contacts. Otherwise, he could have telephoned or sent an email to all of his customers in February. The failure to make the required visits would not have resulted in any breach of a contractual obligation between Per Mar and its customers. However, the failure did reflect poor customer relations and could have been viewed by customers as a lack of attention to their account. Because he had been provided the training he needed to perform his job in the manner desired by the employer, the administrative law judge must conclude that the conduct was deliberate and intentional. Mr. Glass owed his employer the duty of honesty but breached that duty when he submitted reports that were not accurate concerning his performance. For the reasons cited herein, it is concluded that disqualifying misconduct has been established and benefits are denied.

Mr. Glass has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated September 25, 2009, reference 01, is hereby reversed. Mr. Glass was discharged by Per Mar for misconduct. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Glass will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css