

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TREY HELD
Claimant

APPEAL NO: 12A-UI-07542-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARKER IMPLEMENT & MOTOR CO INC
Employer

OC: 05-20-12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 11, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 17, 2012. The claimant participated in the hearing. Denise Williams, human resources manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time inside sales representative for Barker Implement & Motor Company from March 24, 2009 to May 23, 2012. The claimant sold a customer a tractor in the fall of 2010. On March 14, 2012, the customer came in to the dealership and told the claimant the steering bushings on the tractor wore out. The claimant filed a claim with the employer's insurance company stating the tractor was damaged when it was parked on a hillside overnight, went into gear and rolled down a hill, which was a fabrication of the facts surrounding the situation. After filing the claim, with the customer's consent, the claimant's conscience started bothering him and he tried to retract the claim the same day he filed it. When the employer became aware of the situation, it requested a copy of the insurance company's report and received the final report May 14, 2012. After reviewing what the claimant stated on the insurance claim and confirming with the claimant that he called the insurance company and provided the inaccurate information, the employer terminated the claimant's employment May 23, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related 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 claimant admitted making a false claim to the insurance company on behalf of a customer March 14, 2012. Even though his conscience began bothering him soon after filing the fraudulent claim, and he tried to retract it the same day, the fact remains the claimant made the decision to file the false claim and did so before changing his mind. His actions were dishonest and the employer would have difficulty trusting him in the future had he been allowed to stay. Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits must be denied.

DECISION:

The June 11, 2012, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw