

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY R DAVIS
Claimant

APPEAL NO. 12A-UI-02220-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIKES LINES INC
Employer

**OC: 01-15-12
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 23, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 22, 2012. The claimant did participate. The employer did not participate.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an over-the-road truck driver full time beginning in January 2011 through January 14, 2012 when he was discharged. The claimant was in an accident in his own vehicle on his own time in January 2011. He was ticketed for failure to have insurance and is still paying off the fine he received for his failure to carry liability insurance. His driver's license was suspended for at least a one-week period of time. Having a valid driver's license was and is an essential job requirement for a truck driver. The claimant never reported to his employer that his license had been suspended. When the claimant was hospitalized in January 2012 the employer's insurance company discovered that his license had been suspended for a period of time in January 2011 and notified the employer that they would no longer cover him under their insurance. The employer discharged the claimant for being uninsurable due to his license suspension and his failure to even report that event to the employer.

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 § 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.

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. IDJS*, 299 N.W.2d 698 (Iowa 1980).

The claimant lost his driver's license because of his own illegal actions of operating a motor vehicle without the required liability insurance. He failed to report to his employer that his license had been suspended. The Administrative Law Judge is convinced that as an over-the-road trucker, the claimant knew or should have known that his license being suspended would be information the employer would be interested and entitled to have. Once the employer found out through their insurance company that the claimant's license had been suspended for a period of time, he was discharged. The only delay in the action by the employer was because they did not find out from the claimant because he hid the information from them. The claimant was uninsurable due to his own illegal actions. His discharge was for misconduct sufficient to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The February 23, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css