

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLIN Z RENNOLET
Claimant

TITAN TIRE CORPORATION
Employer

APPEAL 17A-UI-05596-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/07/17
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 730.5 – Private Sector Drug-free Workplaces

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 26, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged for violation of a known company rule. The parties were properly notified of the hearing. A telephone hearing was held on June 14, 2017. The claimant, Colin Z. Rennolet, participated. The employer, Titan Tire Corporation, participated through Mike Girlock, HR Manager.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a Maintenance Mechanic, from October 24, 2016, until May 8, 2017, when he was discharged for failing a random drug screen. Claimant testified that he received a copy of the employer's drug testing policy. Claimant was administered a random urine drug screen on April 21, 2017, by Midland Testing Services, Inc., at the employer's facility. At the time, claimant reported that he was taking prescription methadone. Claimant was informed that he was being tested for multiple drugs, including amphetamines and methamphetamines. Between the time claimant submitted his sample and the time the test results were provided, claimant was suspended from work for suicidal behavior and suspected drug use in the workplace. At that time, claimant was referred to the Employee Assistance Program, and he received services related to chemical dependency. On May 8, 2017, claimant was sent a letter via certified mail notifying him that he tested positive for methamphetamines. Claimant was offered the opportunity for a split-sample test. However, he testified that he did not have the funds or transportation necessary to pursue this second test. Claimant believes his drug screen was a false positive, due to his methadone use.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for disqualifying misconduct. Benefits are withheld.

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.

Iowa Admin. Code r. 871-24.32(1)a provides:

(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. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); accord *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000).

The employer has the burden of proving disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Whether an employee violated an employer's policies is a different issue from whether the employee is disqualified for misconduct for purposes of unemployment insurance benefits. See *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000) ("Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of benefits." (Quoting *Reigelsberger*, 500 N.W.2d at 66.)).

Testing under Iowa Code section 730.5(4) allows employers to test employees for drugs and/or alcohol and requires the employer "adhere to the requirements . . . concerning the conduct of such testing and the use and disposition of the results." Here, the employer met all the requirements of Iowa Code section 730.5. Employees are required to be drug free in the workplace. The violation of the known work rule constitutes misconduct, as it presents a safety

hazard to the employee and coworkers, and it presents potential liability for the employer. Benefits are withheld.

DECISION:

The May 26, 2017 (reference 01) unemployment insurance decision is affirmed. 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn