

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROGER COOPER**  
Claimant

**APPEAL NO. 10A-UI-08588-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A-LERT**  
Employer

**Original Claim: 05/09/10  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated June 8, 2010, reference 02, that denied benefits based upon his separation from A-Lert. After due notice was issued, a telephone hearing was held on August 3, 2010. The claimant participated personally. The employer participated by Ms. Julie Sumner.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Roger Cooper was employed by A-Lert as a full-time millwright from September 18, 2007, until April 5, 2010, when Mr. Cooper was separated from employment for violation of a known company rule. Mr. Cooper underwent a random drug screen and tested positive for the presence of a controlled substance prohibited by company policy. The method of selection for the random sampling and the testing, confirmatory testing, and method of notification were in compliance with statutory provisions governing drug testing.

After being separated from employment, Mr. Cooper entered into a voluntary rehabilitation program at his own expense and successfully completed the rehabilitation process. Under company policy, individuals who successfully complete rehabilitation, in conformance with company policy, are eligible to be rehired, provided a position is open. Mr. Cooper was determined to be eligible to be rehired by the company when a position is open.

## REASONING AND CONCLUSIONS OF 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.

The evidence in the record establishes that Mr. Cooper was discharged from his employment with A-Lert based upon violation of a known company rule when the claimant tested positive for a controlled substance in violation of A-Lert policy. The claimant's discharge, therefore, took place because the claimant had knowingly violated a company rule. The claimant's conduct showed a disregard of the employer's interests and standards of behavior that the employer had a right to expect and thus was disqualifying under the provisions of the Iowa Employment Security Act.

The record in this matter, however, shows that Mr. Cooper had completed a rehabilitation program and therefore, under the policies of A-Lert, is eligible to be rehired in the future, provided there is a job position open. The claimant's eligibility to be rehired in the future, however, does not change the basis for his termination from employment, which took place under disqualifying conditions.

**DECISION:**

The representative's decision dated June 8, 2010, reference 02, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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