

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID M HEIDT
Claimant

APPEAL NO. 07A-UI-02870-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRIPROCESSORS INC
Employer

**OC: 02/18/07 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, David Heidt, filed an appeal from a decision dated March 14, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 6, 2007. The claimant participated on his own behalf. The employer, Agriprocessors, participated by Human Resources Manager Elizabeth Billmeyer.

ISSUE:

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

FINDINGS OF FACT:

David Heidt was employed by Agriprocessors from September 13, 2004 until February 6, 2007, as a full-time maintenance technician. At the time of hire he received a copy of the employee handbook, which set out the employer's policies. Under the section regarding grounds for discharge is listed incarceration, which results in time away from work.

Mr. Heidt was arrested and confined in the Fayette County Jail on February 2, 2007. He missed his scheduled shifts on February 4 and 5, 2007. His manager, Tom McJunkins, asked Human Resources Manager Elizabeth Billmeyer what the policy was and she told him. The claimant was not released until February 14, 2007, at which time he was notified he was fired.

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 claimant was discharged for violation of a known company rule. He was incarcerated until February 14, 2006, and missed work due to being in jail. This is unexcused absenteeism and conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 14, 2007, reference 01, is affirmed. David Heidt is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw