

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT J BLADEL
Claimant

APPEAL NO. 10A-UI-07784-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QUAD CITIES AUTOMOTIVE GROUP
Employer

**OC: 04/25/10
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Robert Bladel filed an appeal from a representative's decision dated May 19, 2010, reference 01, which denied benefits based on his separation from Quad Cities Automotive Group. After due notice was issued, a hearing was held by telephone on July 30, 2010. Mr. Bladel participated personally. The employer participated by Leann Zinn, Human Resources Manager.

ISSUE:

At issue in this matter is whether Mr. Bladel was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Bladel was employed by Quad Cities Automotive Group from July 14, 1997 until April 16, 2010. He was last employed full-time in the prep department of Lujack's Northpark Auto Plaza. He was discharged for fighting on the job.

On April 10, 2010, a transport driver delivered a load of vehicles to Mr. Bladel's job site and was told several times where to place the vehicles. When he asked the last time, Mr. Bladel asked him, "Were you listening to me or are you stupid." The driver began coming towards Mr. Bladel and saying, "Don't call me stupid." He was not making any threatening remarks or gestures. When he stopped within approximately one foot of Mr. Bladel, Mr. Bladel punched him in the face, knocking the driver down. The police were called and Mr. Bladel arrested. He was suspended on April 12 and discharged on April 16. The above matter was the sole reason for the discharge.

At the time he struck the driver, Mr. Bladel was situated between two vehicles, one approximately five feet to his right and the other one to two feet to his left. There was a wall three feet behind Mr. Bladel and both vehicles were three feet from the wall. After he punched the driver, Mr. Bladel left the area by walking between one of the vehicles and the wall.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Bladel was discharged for fighting on the job. Although he contended that he struck the driver in self-defense, the administrative law judge cannot agree. The driver did not make any threatening remarks or gestures to Mr. Bladel. The fact that he came into Mr. Bladel's space did not constitute justification for punching him. Mr. Bladel could have turned and retreated using the same route he took after punching the driver. The driver did not have him backed into a corner with no way out. In short, the evidence failed to establish that Mr. Bladel was in any immediate danger that justified him punching the driver.

The employer had an obligation to maintain a violence-free workplace for its employees as well as visitors to the site. Mr. Bladel compromised the employer's ability to provide such a workplace. Moreover, his actions resulted in a lawsuit by the driver against the employer. Inasmuch as his actions constituted a substantial disregard of the employer's interests and standards, benefits are denied.

DECISION:

The representative's decision dated May 19, 2010, reference 01, is hereby affirmed. Mr. Bladel was discharged for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw