

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ZACHARY C REED
Claimant

DELAVAN INC
Employer

APPEAL NO: 09A-UI-15654-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/20/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge
Section 17A.12(3) – Default

STATEMENT OF THE CASE:

The employer appealed a department decision dated October 9, 2009, reference 01 that held the claimant was not discharged for misconduct on September 17, 2009, and benefits are allowed. A telephone hearing was scheduled for November 19, 2009. The claimant participated. The employer did not participate.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: The employer failed to respond to the hearing notice and provide a telephone number to be contacted for the hearing. The claimant moved to default the employer for its failure to appear, and the motion was granted.

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.

The administrative law judge concludes the claimant motion to default that was granted due to the failure of the employer to appear (respond to the hearing notice) for the hearing establishes that claimant was not discharged for misconduct on September 17, 2009.

The employer appealed the department decision, but it failed to appear for the hearing to contest the discharge. The employer is defaulted pursuant to Iowa Code section 17A.12(3), and the department decision remains in force and effect.

DECISION:

The department decision dated October 9, 2009, reference 01 is affirmed. The claimant was not discharged for misconduct on September 17, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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