

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JONATHAN C WARD**  
Claimant

**APPEAL NO. 11A-UCFE-00024-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US POSTAL SERVICE**  
Employer

**OC: 04/03/11**  
**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 May 11, 2011, reference 02, which denied benefits effective March 26, 2011, upon a finding the claimant was placed on disciplinary suspension for violation of company rules. After due notice, a telephone hearing was held on June 13, 2011. The claimant participated personally. The employer participated by Ms. Sharon King-Scroggins, hearing representative, and witnesses Debra Sheldon, postmaster, and Brad Meskiman, officer in charge.

**ISSUE:**

At issue is whether the claimant was discharged or suspended without pay for misconduct in connection with his employment.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Jonathan Ward was employed by the U.S. Postal Service beginning August 30, 1997. Mr. Ward most recently worked as a full-time letter carrier and was paid by the hour. His immediate supervisor was the postmaster, Debra Sheldon. Mr. Ward was sent a notice of proposed removal by the postal service and placed upon unpaid disciplinary suspension effective March 26, 2011, for violation of postal service rules.

Mr. Ward was suspended without pay pending his discharge based upon an incident that took place on or about December 14, 2010. On that day, Mr. Ward provided postal service property in the form of a canister of "pepper spray" to an adolescent female in a playground area of a school located in the claimant's postal route. Mr. Ward did not retrieve the canister. Subsequently, the student sprayed another student with the pepper spray, causing skin irritation to the student who had been sprayed and causing disruption in the school. The matter was reported to the school principal, who in turn contacted local police. The police contacted the postal service. When interviewed, Mr. Ward agreed that he had violated postal service policy by providing the pepper spray to an unauthorized individual for unauthorized reasons. Because the claimant had been placed on two disciplinary actions prior to the incident in question, he was placed on disciplinary suspension without pay effective March 26, 2011.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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.

871 IAC 24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

The evidence in the record establishes that Mr. Ward was aware of postal service policies and was aware that he was prohibited from providing postal service property to another individual for unauthorized use. The claimant admitted providing postal service pepper spray to an unauthorized adolescent. The claimant knew or should have known that not only was his conduct unauthorized, it caused potential liability for the postal service and the potential for injury.

The administrative law judge concludes, based upon the evidence in the record, the claimant's conduct showed a willful disregard for the employer's interests and the reasonable standards of behavior that the employer had a right to expect of its employees under the provisions of the Iowa Employment Security Law. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated May 11, 2011, 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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