

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE A HRUDKA
Claimant

APPEAL NO. 07A-UI-08129-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ILLINOIS ARMORED CAR CORP
Employer

**OC: 07/29/07 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Shane Hrudka, filed an appeal from a decision dated August 21, 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 September 10, 2007. The claimant participated on his own behalf. The employer, Illinois Armored Car Corporation (IAC), participated by Human Resources Manager Eva Parisi.

ISSUE:

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

FINDINGS OF FACT:

Shane Hrudka was employed by IAC from April 1, 1984 until July 25, 2007, as a full-time driver/messenger/guard. During the course of his employment he received a copy of the employee handbook. One policy prohibits sleeping in the truck while on duty. This is essential for the safety of the other guard who leaves to truck to go into the clients' businesses, and to preserve the company's assets.

Two co-workers and one client notified Branch Manager Brian Williams on July 13, 2007, the claimant had been sleeping in the truck. This was supported by a video image from a co-worker's cell phone. Mr. Williams met with the claimant and had him write a statement. Mr. Hrudka admitted he had "dozed off" in the truck. He was suspended pending investigation. Mr. Williams obtained statements from the two co-workers and the client which he forwarded to Human Resources Manager Eva Parisi. She reviewed the statements and the video image and determined the claimant had not merely "dozed off" but had been sleeping for as much as five minutes while the guard was out of the truck. The claimant was notified by letter that he was discharged effective July 25, 2007.

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 knew the company policy prohibited sleeping in the truck while on duty, and that this is a dischargeable offense. He did not offer any explanation such as that he was on medication which made him drowsy or that he had been ill. This was a serious violation of a company policy as it prevented the claimant from being alert to any dangers or threats to his co-worker, himself or the company assets. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of August 21, 2007, reference 01, is affirmed. Shane Hrudka 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/css