

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD A EBELSHEISER
Claimant

APPEAL NO. 10A-UI-13200-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROKEN ARROW PROMOTIONS
Employer

OC: 07/18/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Chad Ebelsheiser filed an appeal from a representative's decision dated September 16, 2010, reference 01, which denied benefits based on his separation from Broken Arrow Promotions. After due notice was issued, a hearing was held by telephone on October 28, 2010. The employer participated by Paul Leto, Screen Printing Manager, and Anthony Shellenberger, Production Manager. Mr. Ebelsheiser did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Ebelsheiser 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. Ebelsheiser began working for Broken Arrow Promotions on May 27, 2008. The employer reported wages to Workforce Development under the account of Broken Arrow Promotions (231859-001) as well as the account of the parent company, Preferred Marketing, Inc. (231859-000). He had only one period of employment and performed all services for Broken Arrow Promotions. He was employed full time as a printer. He was discharged for providing false information to the employer regarding his need to be absent.

On June 23, 2010, Mr. Ebelsheiser telephoned Lou Crow and said he would not be at work because he had been arrested and was in jail. Later that evening, he told Mr. Crow, who was also his roommate, that he had not been arrested. The matter was reported to management and, as a result, Mr. Ebelsheiser was given a written warning and suspended for one day. He was told that any further incidents of dishonesty would result in his discharge.

On July 15, Mr. Ebelsheiser contacted Paul Leto and said he had just learned that day that he needed to vacate his apartment and needed July 16 off to move. He was told his services were needed at work but he was to contact Mr. Leto later in the day to confirm. He was also told that, in the event he did not work on July 16, he would be expected to report to work at 5:00 a.m. on July 17. Mr. Ebelsheiser agreed that he would re-contact Mr. Leto on July 15. He did not call

on July 15 and did not report to work on July 16. He did not respond to Mr. Leto's attempts to reach him by telephone on July 16.

As it turned out, Mr. Ebelsheiser had known for some time that he had to vacate his apartment on or about July 16. He did not report for work at 5:00 a.m. on July 17. When he called in at 9:00 a.m. that day, he was discharged. He also had issues with his attendance during the employment but the employer did not have a record of any absences other than an occasion of tardiness on April 27, 2009.

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. Ebelsheiser was discharged for dishonesty with his employer. He deliberately lied to the employer on June 23 when he said he could not work because he was in jail. He knew from the warning and suspension that resulted that he could be discharged if he was ever again dishonest with the employer.

In spite of the June 24, 2010 warning, Mr. Ebelsheiser was again dishonest with his employer on July 15. He told Mr. Leto he had just learned of his eviction when, in fact, he had known about it for some time. He made it appear to the employer that his need to have July 16 off was due to some emergency beyond his control. He compounded the matter by not re-contacting Mr. Leto as agreed and by not responding to his phone messages. His disregard for the employer's interests and standards is further found in the fact that, having taken July 16 off, he did not report for scheduled work on July 17.

Mr. Ebelsheiser owed his employer the duty of honesty but breached that duty by giving false information in order to take time off from work on two separate occasions. The administrative law judge concludes that his actions amounted to substantial misconduct sufficient to warrant a disqualification from job insurance benefits.

DECISION:

The representative's decision dated September 16, 2010, reference 01, is hereby affirmed. Mr. Ebelsheiser was discharged by Broken Arrow Productions on July 17, 2010 for disqualifying misconduct. 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/css