

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES P SOUTHERLAND
Claimant

APPEAL NO. 07A-UI-04341-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

OC: 04/08/07 R: 04
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Charles Southerland filed an appeal from a representative's decision dated April 25, 2007, reference 01, which denied benefits based on his separation from Adecco USA, Inc. After due notice was issued, a hearing was held by telephone on May 15, 2007. Mr. Southerland participated personally. The employer did not respond to the notice of hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Southerland worked through Adecco from October of 2006 until March 12, 2007. He was assigned to work full time for General Electric. On March 12, a coworker shoved a cart into Mr. Southerland and began yelling at him. After a brief argument, Mr. Southerland went to human resources at General Electric to complain about the coworker. Adecco was contacted and, as a result of the incident, both parties were removed from the assignment. Mr. Southerland was not offered an alternative assignment.

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. Southerland was discharged as a result of a verbal altercation with a coworker. He was not the aggressor in the incident. Although he did engage in some argument with the coworker after the cart was shoved into him, Mr. Southerland took his concerns to human resources. The evidence failed to establish that he deliberately and intentionally acted in a manner that was contrary to the employer's standards or interests. At most, his conduct in arguing with the coworker on March 12 was an isolated instance of poor judgment. Conduct so

characterized is not considered misconduct within the meaning of the law. See 871 IAC 24.32(1).

For the reasons stated herein, the administrative law judge concludes that the employer has failed to satisfy its burden of proving that Mr. Southerland should be disqualified from receiving benefits. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated April 25, 2007, reference 01, is hereby reversed. Mr. Southerland was discharged by Adecco on March 12, 2007 but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css