

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

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**Appeal Number: 06A-UI-00950-H2T
OC: 11-20-05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 24, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 14, 2006. The claimant did participate through the interpretation of Susana Jaquez and was represented by Caitlin Slessor, Attorney at Law. The employer did participate through Jeremy Cook, Human Resources Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an hourly production worker full time beginning July 18, 2004 through September 9, 2005, when he last worked. The claimant was discharged by the

employer on October 17, 2005. The claimant was notified by the employer on September 9 that his work permit would expire on September 14 and that, because of that, he would not be allowed to work after September 14. The claimant did not report to work on September 12, or September 13. The claimant had been through an expired work permit previously and had kept the employer informed as to the status of his application. On September 9 the claimant was told that he needed to get his work permit within one month or let the employer know if he would require an extension. In the past the claimant had required extensions up to three months, which had been granted because the claimant kept in touch with the employer. When the employer had not heard from the claimant by October 17 regarding his renewal of his work permit, he was discharged for his failure to keep the employer informed of his progress on getting his work permit. The previous year the same situation had occurred, but the claimant had kept the employer apprised of the progress he was making on renewing his green card.

When the claimant contacted the employer on November 25, when he received his renewed work permit, he was told he had been discharged on October 17 for failing to keep the employer informed of his status. It had been over 60 days since the employer had heard anything from the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

It was the claimant's obligation to keep the employer apprised of the status of his work permit. In the past, the claimant had demonstrated an ability to keep the employer apprised, as he had called in and asked for and been granted extensions of time to get his work permit renewed. The claimant did not keep the employer informed as to what was going on with his application. The employer did not hear from the claimant for over 60 days. The claimant's failure to keep in touch with the employer amounts to misconduct sufficient to disqualify him from receiving unemployment insurance benefits. It was not too much for the employer to expect the claimant to keep in contact with them. Benefits are denied.

DECISION:

The January 24, 2006, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

tkh/kjw