

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MENNO J WATERMAN
Claimant

APPEAL NO. 07A-UI-08786-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERY BROTHERS INC
Employer

OC: 08/12/07 R: 12
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Menno Waterman filed an appeal from a representative's decision dated September 6, 2007, reference 01, which denied benefits based on his separation from Deery Brothers, Inc. After due notice was issued, a hearing was held by telephone on October 1, 2007. Mr. Waterman participated personally. The employer participated by Ron Bennett, Operations Manager, and was represented by Beth Crocker of TALX Corporation.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Waterman was employed by Deery Brothers, Inc. from July 15, 1996 until August 13, 2007. He was employed full time as a line technician. On or about August 10, 2007, he was directed to replace a manifold gasket on a vehicle. He completed paperwork indicating the work had been done. Ron Bennett inspected the vehicle and found that the valve covers and bolts did not appear to have been disturbed. On August 11, he asked Mr. Waterman if he had any problems installing the gasket and he indicated he had not. When Mr. Bennett continued questioning him, Mr. Waterman acknowledged that he had not done the repairs. He indicated he falsified records because he needed the money.

The parts intended for the repairs, valued at approximately \$140.00, were found in another employee's tool box. He indicated Mr. Waterman had given him the parts. Mr. Waterman would have been paid a flat rate for the work he claimed he performed. He would have been paid for 3.5 to 4.5 hours. The total labor billed was \$503.50. The vehicle was under a service agreement and the customer would only have paid his deductible. As a result of his conduct, Mr. Waterman was discharged on August 13, 2007. The above matter was the sole reason for the discharge.

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. Waterman was discharged for dishonesty. He indicated he had performed work on a vehicle when he had not done so. His actions had the potential of the employer paying him for work not actually performed. He also gave away the parts intended for the repair. Such actions constitute theft, which is clearly contrary to the type of behavior an employer has the right to expect.

Mr. Waterman's actions also had the potential of adversely affecting customer relations. A customer has the right to rely on representations that work claimed to have been done was, in fact, done. A customer is not likely to continue patronizing a business if there are misrepresentations as to work completed.

For the reasons stated herein, the administrative law judge concludes that the employer has satisfied its burden of proving disqualifying misconduct. Accordingly, benefits are denied.

DECISION:

The representative's decision dated September 6, 2007, reference 01, is hereby affirmed. Mr. Waterman was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw